

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, : CRIMINAL CASE NUMBER  
PLAINTIFF :  
VERSUS : 17-CR-502-TJS-1  
MICHAEL SHORE, :  
DEFENDANT :

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JULY 31, 2018  
COURTROOM 9A  
PHILADELPHIA, PA 19106

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BEFORE THE HONORABLE TIMOTHY J. SAVAGE, J.

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SENTENCING HEARING

APPEARANCES:

MICHELLE ROTELLA, ESQUIRE  
ASSISTANT UNITED STATES ATTORNEYS  
615 CHESTNUT STREET, SUITE 1250  
PHILADELPHIA, PA 19106

COUNSEL FOR THE GOVERNMENT

LYNN GLIGOR, RMR  
OFFICIAL COURT REPORTER  
ROOM 2609 U. S. COURTHOUSE  
601 MARKET STREET  
PHILADELPHIA, PA 19106  
(856) 649-4774

PROCEEDINGS RECORDED BY STENOGRAPHY-COMPUTER,  
TRANSCRIPT PRODUCED BY COMPUTER-AIDED TRANSCRIPTION

1       **CONTINUED APPEARANCES:**

2       **BURTON ROSE, ESQUIRE**  
3       **1731 SPRING GARDEN STREET**  
4       **PHILADELPHIA, PA 19130**

5       **COUNSEL FOR THE DEFENDANT**

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1 (ALL RISE.)

2 THE COURT: GOOD MORNING, PLEASE BE  
3 SEATED.

4 ALL COUNSEL: GOOD MORNING, YOUR HONOR.

5 THE COURT: THIS IS THE MATTER OF UNITED  
6 STATES OF AMERICA VERSUS MICHAEL SHORE, CRIMINAL NUMBER  
7 17-502. WE ARE HERE TODAY TO INDUCT WHAT I WILL CALL  
8 PHASE ONE OF THE SENTENCING PROCEEDING, THE PURPOSE OF  
9 WHICH IS TO ELICIT EXPERT TESTIMONY REGARDING MR.  
10 SHORE'S MENTAL AND EMOTIONAL CONDITION AND HOW IT HAS  
11 IMPACTED HIS DEFENSIVE BEHAVIOR AS WELL AS WHETHER OR  
12 NOT HE IS AMENABLE TO REHABILITATION, REFORMATION AND  
13 WHAT ALTERNATIVES THERE ARE FOR HIS POSSIBLE  
14 REHABILITATION AGAINST THE BACKDROP OF SECTION 3553(A).

15 IT IS MY UNDERSTANDING THAT MR. SHORE  
16 INTENDS TO CALL DR. ATKINS TO TESTIFY, AND THAT WE HAVE  
17 DR. CHANNELL FROM THE BUREAU OF PRISONS WHO WILL BE  
18 TESTIFYING AS WELL.

19 MR. ROSE.

20 MR. ROSE: DR. ATKINS.

21 (WITNESS SWORN.)

22 THE WITNESS: ELLIOTT ATKINS,

23 A-T-K-I-N-S.

24 DIRECT EXAMINATION

25 BY MR. ROSE:

1 Q. GOOD MORNING, DR. ATKINS.

2 A. GOOD MORNING.

3 Q. CAN YOU HEAR ME OKAY?

4 A. I CAN.

5 Q. DR. ATKINS, YOU KNOW THIS DEFENDANT, MICHAEL  
6 SHORE?

7 A. I DO.

8 Q. HOW HAVE YOU COME TO KNOW HIM?

9 A. I WAS ASKED TO DO A FORENSIC PSYCHOLOGICAL  
10 EVALUATION OF HIM IN RELATION TO THE CHARGES HE WAS  
11 FACING.

12 Q. HAVE YOU MET WITH HIM WHILE HE HAS BEEN  
13 INCARCERATED?

14 A. I HAVE.

15 Q. HOW MANY OCCASIONS HAVE YOU MET WITH HIM?

16 A. I AM ASSUMING IT WAS THREE OR FOUR. IT WAS A  
17 TOTAL OF EIGHT HOURS THAT I SPENT WITH HIM, AND THE  
18 FIRST VISIT WAS IN AUGUST OF LAST YEAR.

19 Q. BY WAY OF YOUR SITUATION, DOCTOR, HAVE YOU EVER  
20 BEEN APPROVED TO TESTIFY AS AN EXPERT IN THE FIELD OF  
21 FORENSIC PSYCHOLOGY?

22 A. I HAVE.

23 Q. DO YOU KNOW HOW MANY TIMES?

24 A. I WOULD IMAGINE MAYBE 150 TO 200 TIMES.

25 Q. HOW ABOUT IN THIS COURTHOUSE?

1           A.           A COUPLE OF DOZEN TIMES.

2           Q.           WHAT IS YOUR PROFESSIONAL BACKGROUND, DOCTOR?

3                       THE WITNESS:   GOOD MORNING, YOUR HONOR.

4           I'LL TRY TO GO THROUGH IT PRETTY QUICKLY.  MY BACHELOR'S  
5           IS IN FINE ARTS, MASTER'S IN CLINICAL PSYCHOLOGY, A  
6           DOCTORATE IN SCHOOL PSYCHOLOGY, MY INTERNSHIPS WERE IN  
7           CLINICAL PSYCHOLOGY.  MY EARLY WORK WAS WITH EMOTIONALLY  
8           DISTURBED ADOLESCENTS AND WITH SUBSTANCE ABUSERS.  AND  
9           WHEN I BECAME LICENSED IN PENNSYLVANIA IN 1977, MY  
10          PRACTICE DEALT PRETTY MUCH WITH TEENAGERS, YOUNG ADULTS,  
11          PEOPLE WITH EMOTIONAL DISTURBANCES, SUBSTANCE ABUSERS.  
12          AND BECAUSE MANY OF THOSE PEOPLE WERE GETTING INTO  
13          TROUBLE WITH THE LAW, I OFTEN GO INTO COURT ON THEIR  
14          BEHALF TO TESTIFY AND ULTIMATELY DEVELOP A FORENSIC  
15          PRACTICE, WHICH OVER THE YEARS GREW AND TOOK PRECEDENCE  
16          OVER MY CLINICAL PRACTICE.

17                      TODAY I HAVE A SMALL CLINICAL PRACTICE,  
18          IT'S MAYBE 5 TO 10 PERCENT OF WHAT I DO, AND WITH THE  
19          REMAINING 90 TO 95 PERCENT BEING FORENSIC PSYCHOLOGY.

20                      I HAVE WORKED IN TREATING AND EVALUATING  
21          BOTH SEX OFFENDERS AS WELL AS VICTIMS OF SEX OFFENDERS  
22          FOR THE LAST 40 YEARS.  THE EVALUATION PROBABLY STARTED  
23          MORE LIKE 35 YEARS AGO, BUT THE TREATMENT STARTED BACK  
24          WHEN I FIRST STARTED MY CLINICAL PRACTICE.  I'VE  
25          TESTIFIED ON THEIR BEHALF, AND I HAVE BEEN -- I HAVE

1 WRITTEN ARTICLES AND PUBLISHED ARTICLES IN FORENSIC  
2 PSYCHOLOGY, INCLUDING AREAS RELATED TO AUTISM AND --  
3 WHICH IS THE ISSUE AT HAND WITH MR. SHORE.

4 AND I HAVE -- IN ADDITION TO MY PRIVATE  
5 PRACTICES, I AM ALSO A TRIAL CONSULTANT WITH THE UNITED  
6 STATES AIR FORCE ADVOCATE GENERAL'S OFFICE.

7 ANY OTHER SPECIFICS YOU WILL HAVE TO ASK.  
8 BY MR. ROSE:

9 Q. HAVE YOU BEEN CALLED UPON TO GIVE YOUR EXPERT  
10 OPINION BY OTHER LAWYERS BESIDES DEFENSE LAWYERS?

11 A. YES, I HAVE. MOST OF MY WORK IS FOR THE  
12 DEFENSE. I DO TESTIFY FOR THE PROSECUTION ALSO. AND MY  
13 WORK FOR THE AIR FORCE IS ALL IN SEX ABUSE CASES, AND  
14 THAT'S HALF PROSECUTION, HALF DEFENSE.

15 MR. ROSE: YOUR HONOR, I WOULD OFFER THIS  
16 INDIVIDUAL AS AN EXPERT.

17 THE COURT: DO YOU HAVE ANY EXAMINATION  
18 REGARDING QUALIFICATIONS?

19 MS. ROTELLA: NO, YOUR HONOR.

20 THE COURT: HE WILL BE ACCEPTED AS AN  
21 EXPERT.

22 MR. ROSE: THANK YOU.

23 BY MR. ROSE:

24 Q. DOCTOR, GETTING BACK TO THIS PARTICULAR  
25 DEFENDANT. DID YOU PREPARE A REPORT IN SEPTEMBER OF

1       LAST YEAR?

2       A.       I DID.

3       Q.       AND WHAT IS THE DATE OF YOUR REPORT?

4       A.       SEPTEMBER 20, 2017.

5       Q.       OKAY. AND YOU HAVE NOT WRITTEN ANY UPDATES FOR  
6       THE COURT, HAVE YOU?

7       A.       NO.

8       Q.       SO GETTING TO THE MATTER AT HAND, WHAT WAS YOUR  
9       DIAGNOSIS OF MR. SHORE?

10      A.       AUTISM SPECTRUM DISORDER.

11      Q.       ARE THERE DIFFERENT LEVELS OF THE AUTISM  
12      SPECTRUM DISORDER?

13      A.       YES, THEY ARE.

14      Q.       AND DO YOU CONCUR WITH DR. CHANNELL THAT THIS IS  
15      A LEVEL 1?

16      A.       YES.

17      Q.       WHAT DOES THAT MEAN TO YOU?

18      A.       IN THE OLD DAYS, THE PEOPLE WHO ARE DESCRIBED AS  
19      LEVEL 1 WERE DESCRIBED AS HAVING ASPERGER'S DISEASE OR  
20      ASPERGER'S SYNDROME. THAT TERM HAS NOT BEEN USED IN THE  
21      LAST SEVERAL YEARS, BUT DESCRIBES PRETTY MUCH THE SAME  
22      THING IN THAT A PERSON WHO HAS AUTISM BUT IS CAPABLE OF  
23      FUNCTIONING AT A HIGHER LEVEL. TYPICALLY THESE PEOPLE  
24      HAVE INTACT INTELLECTUAL ABILITIES, BUT THE SYMPTOMS OF  
25      THE AUTISM MANIFEST THEMSELVES IN THEIR THINKING, THEIR

1 BEHAVIOR AND PRIMARILY IN THEIR SOCIAL SKILLS, THEIR  
2 SOCIAL RELATIONS.

3 Q. AND WHAT ABOUT MR. SHORE, WHAT IS YOUR  
4 ASSESSMENT OF HIS LEVEL OF ASD?

5 A. I WOULD AGREE WITH DR. CHANNELL, HIS LEVEL -- IT  
6 WOULD HAVE BEEN CALLED ASPERGER'S.

7 Q. NOW, IN HIS HISTORY, WHICH WE WON'T -- I DON'T  
8 THINK YOUR HONOR IS GOING INTO DEPTH INTO THE HISTORY OF  
9 THE DEFENDANT.

10 YOU WERE AWARE THAT HE WAS DETERMINED BY  
11 THE SOCIAL SECURITY ADMINISTRATION TO BE PLACED ON SSI  
12 DISABILITY WHEN HE WAS AGE 21?

13 A. YES.

14 Q. AND SINCE THAT TIME HE HAS BEEN, ACCORDING TO  
15 YOUR REPORT, DEALING WITH THIS DIFFICULT ISSUE?

16 A. YES.

17 Q. OKAY. NOW IN YOUR OPINION, HOW IS HIS CASE ANY  
18 DIFFERENT FROM, IF I CAN USE THE TERM, THE HEARTLAND OF  
19 CASES THAT WE SEE FOR PEOPLE WHO ARE ACCUSED OF  
20 VIOLATING THIS LAW?

21 A. WHEN WE LOOK AT THE SYMPTOMS OF AUTISM SPECTRUM  
22 DISORDER, OR ASD, WHEN WE LOOK AT THE SYMPTOMS, WE SEE  
23 AN INABILITY TO RELATE TO OTHER PEOPLE IN AN  
24 AGE-APPROPRIATE MANNER. WE SEE AN INABILITY TO  
25 UNDERSTAND WHAT THE OTHER PERSON IS EXPERIENCING IN



1       RELATION TO WHAT YOU ARE DOING. IT'S HARD FOR THEM TO  
2       UNDERSTAND THEIR EFFECT ON OTHER PEOPLE. THERE IS A --  
3       THERE ARE DEFICITS IN EMPATHY, THERE IS A LACK OF  
4       UNDERSTANDING OF HOW THEIR TREATMENT OF THE OTHER PERSON  
5       MIGHT BE CAUSING THEM PAIN OR MIGHT BE CAUSING THEM  
6       DISCOMFORT OR MIGHT MAKE THEM FEEL ANGRY.

7                   THERE ARE ALSO FIXATED INTERESTS,  
8       OBSESSIONS, OBSESSIONS AND COMPULSIONS AND BEHAVIORS  
9       THAT PEOPLE WITH -- ON THE AUTISM SPECTRUM WIND UP  
10      COLLECTING, THEY WIND UP SAVING, ORGANIZING,  
11      CATALOGUING, THEY DO EVERYTHING IN A VERY CONTROLLED  
12      MANNER BECAUSE THIS IS THE WAY IN WHICH THEY ARE ABLE TO  
13      STRUCTURE LIFE, THIS IS A WAY IN WHICH THEY ARE ABLE TO  
14      MANAGE THEIR ANXIETY. THIS WOULD MANIFEST IN HIS  
15      COLLECTION OF CHILD PORNOGRAPHY, HIS COLLECTION OF ALL  
16      KINDS OF PORNOGRAPHY, CATALOGUED AND SAVED, AND HE  
17      NEEDED TO COMPLETE COLLECTIONS. VIDEO GAMES, WHATEVER  
18      HE DID HE NEEDED TO DO IT IN A WAY THAT BECAME  
19      OBSESSIVE, SOMETHING THAT HE WOULD DO ALMOST WITHOUT  
20      LIMIT, ALMOST DAY AND NIGHT.

21                   BECAUSE OF THEIR SOCIAL SKILLS, AND THIS  
22      SPEAKS FOR NOT JUST MR. SHORE BUT I AM SAYING THIS IN  
23      TERMS OF ALMOST EVERYONE ON THE AUTISM SPECTRUM, THEY  
24      TEND TO -- IF THEY ARE IN SOCIAL INTERESTS OR SOCIAL  
25      RELATIONSHIPS, THEY TEND TO BE WITH PEOPLE MUCH YOUNGER

1        THAN THEIR OWN AGE.    MR. SHORE'S ABILITY TO PERFORM  
2        APPROPRIATE RELATIONSHIPS, AGE-APPROPRIATE RELATIONSHIPS  
3        WAS LIMITED FROM DAY ONE, FROM PRESCHOOL ALL THROUGH HIS  
4        MIDDLE SCHOOL, HIGH SCHOOL.    HE WAS NEVER ABLE TO MAKE  
5        FRIENDS.    HE DID NOT HAVE FRIENDS.    ANY GIRLS THAT HE  
6        WOULD WANT TO TALK TO WOULD NOT BE INTERESTED IN HIM.  
7        ULTIMATELY, HE DEVELOPED THE PERCEPTION THAT IF THE  
8        GIRLS WERE YOUNGER THAN HIM HE MIGHT HAVE A BETTER  
9        CHANCE OF THEM APPROVING OF HIM OR ACCEPTING OF HIM.

10                                AND AS A RESULT OF THIS WHEN HE BEGAN TO  
11        LOOK AT PORNOGRAPHY, HE WAS LOOKING AT GIRLS HIS OWN  
12        AGE.    BUT AS HE GOT OLDER, HE CONTINUED TO LOOK AT THE  
13        GIRLS THAT WERE YOUNGER THAN HIM.    AND HIS SEXUAL  
14        INTERESTS WERE IN GIRLS THAT WERE PRIMARILY PREPUBESCENT  
15        -- EXCUSE ME, POST PREPUBESCENT, AND MOST OF THEM WOULD  
16        BE CONSIDERED TO BE MINORS.    AND HIS INTERESTS RANGE,  
17        ALTHOUGH HE DESCRIBED IT AS 9 TO 17, THE OVERWHELMING  
18        MAJORITY OF HIS INTERESTS WERE IN POST PUBESCENT, WHICH  
19        WOULD TYPICALLY BE 12, 13, 14, 15 YEARS AND UP TO  
20        17-YEAR OLDS.

21                                HIS WAY OF INTERACTING WITH THE WORLD WAS  
22        PRIMARILY THROUGH FANTASY, PLAYING FANTASY GAMES,  
23        CHATTING ON THE INTERNET.    AND IN REAL LIFE, HE HAPPENED  
24        TO HAVE A JOB WHERE HIS PRIMARY WAY OF DEALING WITH  
25        PEOPLE WAS MEETING THEM IN COSTUME.    HIS FAMILY BUSINESS

1 ALMOST CONSISTENTLY INVOLVED HIM GOING TO THESE  
2 CONVENTIONS WHERE HE AND THE PEOPLE HE WOULD BE MEETING  
3 WOULD BE IN COSTUMES. AND THIS GAVE HIM AN OPPORTUNITY  
4 TO MEET PEOPLE AND GIRLS WITHOUT HIM HAVING TO BE  
5 HIMSELF. SAME THING WHEN HE WAS CHATTING ON THE  
6 INTERNET WITH GIRLS. HE WOULD BE ABLE TO HAVE THE  
7 SAFETY AND SECURITY OF THE COSTUME AS A BARRIER BETWEEN  
8 HIMSELF AND OTHER HUMAN BEINGS, OR HE HAD THE INTERNET  
9 AS THE BARRIER.

10 RARELY IF EVER DID HE PUT HIMSELF IN A  
11 POSITION WHERE HE WOULD BE SEEKING OUT SOMEONE AS  
12 HIMSELF WITHOUT A COSTUME OR WITHOUT THE INTERNET. A  
13 FEW TIMES WHERE THAT DID OCCUR, IT WOULD BE EXTREMELY  
14 ANXIETY PROVOKING.

15 MR. ROSE ASKED ME HOW THIS CONDITION  
16 ATTRIBUTED TO HIS COMMISSION OF THE OFFENSE AND HOW HIS  
17 COMMISSION OF THE OFFENSE MIGHT BE DISTINGUISHABLE FROM  
18 THE TYPICAL PERSON THAT THIS STATUTE, THAT THE  
19 SENTENCING COMMISSION HAD IN MIND. ALTHOUGH MR. SHORE  
20 IS CAPABLE OF BEING MANIPULATIVE, ALTHOUGH HE IS CAPABLE  
21 OF SAYING AND DOING THINGS AS PART OF HIS COMMISSION OF  
22 THIS OFFENSE TO GET THESE -- THE VICTIMS TO LIKE HIM,  
23 CONTINUE TO CHAT WITH HIM, SEND HIM PICTURES OF -- SEND  
24 HIM PICTURES OF THEMSELVES, THERE WAS A MANIPULATIVE  
25 ASPECT TO THAT, AND SUBSEQUENTLY HE IS CHARGED WITH SOME

1       VERY SERIOUS -- HAS PLED GUILTY TO SOME VERY SERIOUS  
2       OFFENSES.

3                       BUT THERE IS SOMETHING LESS SOPHISTICATED  
4       AND LESS MANIPULATIVE ABOUT HIS WAY OF DOING THIS.  FOR  
5       THE MOST PART, HE USED HIS OWN NAME.  FOR THE MOST PART,  
6       HE SAID WHO HE WAS AND TOLD HIS ACTUAL AGE.  IN TALKING  
7       TO A 12-YEAR OLD GIRL HE SAID I AM 33, VERY UNUSUAL.  
8       USUALLY THE BEHAVIORS OF PEOPLE WHO ARE PATROLLING THE  
9       INTERNET TO FIND YOUNG GIRLS ARE PRESENTING THEMSELVES  
10      AS SOMEONE MUCH CLOSER TO THE AGE OF THE YOUNG GIRL.  
11      AND RARELY DID THEY USE THEIR OWN NAMES OR GIVE THEIR  
12      ADDRESSES TELLING THEM WHERE THEY LIVED.  THERE WAS SOME  
13      DEGREE OF MANIPULATION, BUT THERE WAS ALSO A LACK OF  
14      SOPHISTICATION AND A TRANSPARENCY THAT IS VERY ATYPICAL.

15                     MR. SHORE KNEW THAT WHAT HE WAS DOING WAS  
16      WRONG.  HE KNEW THAT IT WAS ILLEGAL FOR HIM TO BE HAVING  
17      SEX WITH THE UNDERAGED PEOPLE AND TO BE ASKING THEM FOR  
18      PICTURES.  HE KNEW IT WAS WRONG FOR HIM TO BE HAVING  
19      THESE SEXUAL DISCUSSIONS WITH THEM.

20                     BUT AS A RESULT OF HIS AUTISM SPECTRUM  
21      DISORDER, HE LACKED THE ABILITY TO TRULY UNDERSTAND THAT  
22      WHAT HE WAS DOING WAS DAMAGING THESE PEOPLE.  HE HAD  
23      VERY LITTLE OR NO APPRECIATION OF THE HARM THAT HE WAS  
24      DOING.  HE KNEW IT WAS WRONG, HE KNEW IT WAS ILLEGAL,  
25      BUT HE DID NOT HAVE THE UNDERSTANDING OR APPRECIATION

1 FOR WHAT HE WAS SUBJECTING THESE PEOPLE TO.

2 AND TO A LARGE DEGREE, THIS  
3 DIFFERENTIATED HIM FROM MOST OF THE PEOPLE WHO COMMIT  
4 THIS -- WHO WOULD TYPICALLY COMMIT THIS CRIME. THERE  
5 ARE OTHER PEOPLE WITH A LACK OF EMPATHY WHO COMMIT THIS  
6 CRIME, SOCIOPATHS, PEOPLE WITH ANTISOCIAL PERSONALITY  
7 DISORDERS. THEY ENGAGE IN PREDATORY BEHAVIOR WITHOUT A  
8 CONCERN FOR THE DAMAGE THAT IT MIGHT DO FOR OTHERS.

9 BUT THAT'S NOT BECAUSE THEY LACK AN  
10 INTELLECTUAL AWARENESS. THEY HAVE AN INTELLECTUAL  
11 AWARENESS THAT IT'S HARMING AND THEY JUST DON'T CARE.  
12 THERE'S A LACK OF EMPATHY FOR SOMEBODY WITH AUTISM THAT  
13 IS -- IT'S DIFFERENT. IT'S THAT THEY DON'T UNDERSTAND  
14 WHAT THEY ARE DOING IS HARMING THAT PERSON. IT'S NOT  
15 THAT THEY DON'T CARE, THEY DON'T KNOW, THEY DON'T  
16 UNDERSTAND.

17 THIS DIFFERENTIATES MR. SHORE FROM A  
18 TYPICAL PERSON, PARTICULARLY IN MY OPINION, THE TYPICAL  
19 PERSON WHO IS CHARGED WITH A CRIME OF MANUFACTURING  
20 CHILD PORNOGRAPHY. PEOPLE WHO ACTUALLY WANT TO CREATE  
21 VIDEOS TO SELL THEM, TO MARKET THEM, TO GET PICTURES  
22 THAT THEY CAN EXCHANGE TO GET OTHER PICTURES FROM  
23 SOMEBODY, PEOPLE WHO SET UP SITUATIONS, PRIMARILY FOR  
24 THE PURPOSE OF CREATING CHILD PORNOGRAPHY. THAT'S NOT  
25 WHAT HE WAS DOING. THERE WAS NO GOAL HERE OF SETTING UP

1 A BUSINESS OF -- EVEN ENGAGING IN A PROCESS OF ACQUIRING  
2 MORE CHILD PORNOGRAPHY AS A RESULT OF HIS ASKING THE  
3 GIRL TO SEND A PICTURE. YET HE STILL FITS TECHNICALLY  
4 WITHIN THE DEFINITION OF THAT STATUTE.

5 IT'S MY OPINION IN MY REPORT AND MR.  
6 ROSE'S QUESTION DIRECTED IT TOWARD MY OPINION, THAT THIS  
7 IS NOT WHAT THE SENTENCING COMMISSION HAD IN MIND WHEN  
8 THEY DEVELOPED THESE SENTENCES FOR THESE CHARGES.

9 Q. DOCTOR, YOU HAVE READ THE REPORT OF DR.  
10 CHANNELL?

11 A. I HAVE.

12 Q. IN DR. CHANNEL'S REPORT HE SUGGESTS THAT THE  
13 DEFENDANT MIGHT BE CLASSIFIED AS A PEDOPHILE?

14 A. YES.

15 Q. DO YOU AGREE OR DISAGREE WITH THAT?

16 A. I DISAGREE, BUT THIS IS -- IT'S NOT AS  
17 SCIENTIFIC WHERE WE CAN HAVE TEN EXPERTS LOOK AT THE  
18 FACTS OF THIS CASE. I LOOK AT THE RESULTS OF THE  
19 PSYCHOLOGICAL TESTING. YOU COULD HAVE ALL TEN SAY HE'S  
20 A PEDOPHILE AND TEN SAY ABSOLUTELY HE IS NOT. I  
21 DISAGREE FOR THE MOST PART FOR THAT DIAGNOSIS.

22 THE REASON I DISAGREE IS TWO FOLD:  
23 ALTHOUGH MR. SHORE INCLUDED CHILDREN AS YOUNG AS NINE IN  
24 TERMS OF WHO IT WAS THAT HE WOULD BE INTERESTED SEXUALLY  
25 IN, THE OVERWHELMING MAJORITY FROM WHAT MR. ROSE

1        REVIEWED, THE DISCOVERY MATERIALS, THE IMAGES.    THE  
2        OVERWHELMING MAJORITY I UNDERSTAND WAS OF PEOPLE THAT  
3        ARE POST PUBESCENT, OVERWHELMING MAJORITY.    ALL OF --  
4        EVERY ONE OF MR. SHORE'S ACTUAL SEXUAL RELATIONSHIP  
5        ISSUES WITH THESE GIRLS, THE CHATS THAT HE HAD, THE  
6        MEETINGS WITH THE GIRLS, THE GIRLS THAT HE ULTIMATELY  
7        DID HAVE SOME SEXUAL CONTACT WITH, THEY WERE ALL POST  
8        PUBESCENT.    THEY WERE MINORS, BUT THEY WERE POST  
9        PUBESCENT.

10                    THE DEFINITION OF PEDOPHILIA IS YOUR  
11        SEXUAL INTEREST IS IN PREPUBESCENT, AND IT'S NOT CLEAR  
12        TO ME THAT HE TRULY HAS A SEXUAL INTEREST IN  
13        PREPUBESCENT.    SO AS A RESULT, I BROUGHT IN A PERSON WHO  
14        IS TRAINED TO ADMINISTER A TEST OF SEXUAL INTERESTS,  
15        IT'S CALLED THE ABEL.    I BROUGHT IN DR. HAWORTH, THOMAS  
16        HAWORTH.    AND HE ADMINISTERED THE ABEL, AND THE ABEL  
17        SHOWED -- INDICATED THAT THERE WAS NO SEXUAL INTEREST IN  
18        PREPUBESCENT.    SO I DO DISAGREE WITH DR. CHANNEL'S  
19        DIAGNOSIS OF PEDOPHILIA, BUT I CAN'T SAY THAT IT IS NOT  
20        A POSSIBILITY.

21                    I THINK MORE IMPORTANTLY THAT'S PRETTY  
22        MUCH THE ONLY THING I DISAGREED WITH IN DR. CHANNEL'S  
23        REPORT.    HE WROTE A VERY LENGTHY COMPREHENSIVE, IN MY  
24        OPINION, A VERY HELPFUL REPORT THAT FULLY EXPLAINS THE  
25        DEVELOPMENT OF THE AUTISM SPECTRUM DISORDER, THE

1       MANIFESTATIONS OF IT, THE WAYS IN WHICH IT'S AFFECTED  
2       MR. SHORE'S LIFE AND ALSO THE WAYS IN WHICH THIS  
3       CONDITION INFLUENCED AND AFFECTED HIS BEHAVIOR, HIS  
4       OFFENSIVE BEHAVIOR. SO TO HAVE CONFIRMATION OR  
5       CORROBORATION OF MY FINDINGS BY AN INDEPENDENT EXPERT  
6       REINFORCED BOTH MY DIAGNOSIS OF AUTISM SPECTRUM DISORDER  
7       AND MY OPINIONS REGARDING THE EXTENT TO WHICH THAT  
8       DISORDER CONTRIBUTED TO HIS OFFENSE.

9       Q.       DOCTOR, WHAT IS THIS DEFENDANT'S LIKELIHOOD OF  
10       VICTIMIZATION IN PRISON?

11       A.       THERE IS --

12                       MS. ROTELLA: OBJECTION.

13                       THE COURT: BASIS?

14                       MS. ROTELLA: I OBJECT TO HIM ATTRIBUTING  
15       HOW HE'S BEING VICTIMIZED IN THE FUTURE IN THE PRISON.

16                       THE COURT: SUSTAINED.

17       BY MR. ROSE:

18       Q.       DOCTOR, HAVE YOU HAD ANY EXPERIENCE IN  
19       DETERMINING WHAT HAPPENS TO AN ASD INMATE?

20       A.       YES.

21                       MS. ROTELLA: OBJECTION.

22                       THE COURT: OVERRULED.

23       BY MR. ROSE:

24       Q.       WHAT IS THAT EXPERIENCE?

25       A.       WELL, FIRST OF ALL, LET'S JUST TAKE MR. SHORE,



1       FOR EXAMPLE.   HE WAS AT THE DETENTION CENTER WHEN I SAW  
2       HIM, AND HE WAS STRUGGLING.   HE WAS MANIFESTING A LOT OF  
3       SELF-INJURIOUS BEHAVIORS.   HE WAS -- ONE OF THE SYMPTOMS  
4       OF HIS CONDITION IS A TREMENDOUS DEPENDANCY WEIGHING ON  
5       THIS CHRONOLOGICAL AGE, MUCH MORE LIKE A YOUNG CHILD, A  
6       VERY YOUNG CHILD HAS A TREMENDOUS DEPENDANCY ON HIS  
7       PARENTS.   AND REMOVAL OF THOSE SUPPORTS, AND IN  
8       PARTICULAR THE REMOVAL OF HIS ABILITY TO EVEN USE THE  
9       INTERNET TO CHAT WITH THEM, TRIGGERED A WHOLE FLOOD OF  
10      SELF-DESTRUCTIVE BEHAVIORS.   PICKING HIS SKIN, PULLING  
11      AND TEARING AT HIS SKIN, BANGING HIS HEAD.   IT WAS A  
12      PROBLEM SIMPLY BECAUSE OF THE REMOVAL FROM THE SUPPORT  
13      SYSTEMS.

14                   THE OTHER PROBLEM IS THE SOCIAL  
15      ISOLATION, HIS ABILITY TO INTERACT WITH THE OTHER  
16      INMATES WAS EXTREMELY COMPROMISED.   I KNOW HE DID NOT DO  
17      WELL UP AT DEVENS, EITHER.   THE INFORMATION THAT I GOT  
18      BACK THROUGH MR. ROSE OR HIS MOTHER WERE CONCERNS ABOUT,  
19      ONCE AGAIN, HIS ENGAGING IN SELF-DESTRUCTIVE BEHAVIOR,  
20      HAVING PANIC ATTACKS.   WHEN HE GOES OFF INTO A REGULAR  
21      PRISON SETTING, THE CONSISTENCY AND THE STRUCTURE OF  
22      THAT SETTING MIGHT ALLOW HIM A LEVEL OF PREDICTABILITY  
23      AND CONTROL AND COMFORT THAT MIGHT WORK TO HIS BENEFIT,  
24      BUT HE IS NOT GOING TO BE ABLE TO DEAL WITH THE OTHER  
25      INMATES.   HIS LACK OF ABILITY TO UNDERSTAND HIS EFFECT

1       ON THEM, TO UNDERSTAND THE SUBTLETIES OR NUANCES OR  
2       OTHER PEOPLE'S MANIPULATION IS GOING TO SET HIM UP FOR  
3       VICTIMIZATION. THE PSYCHOLOGICAL LITERATURE IS VERY  
4       CLEAR ABOUT THE EXTENT IN WHICH PEOPLE WITH AUTISM WIND  
5       UP BEING VICTIMIZED IN PRISON.

6                       SO MY PERSONAL EXPERIENCE IS IN PEOPLE  
7       WHO I AM EVALUATING, WITH PEOPLE WHO HAVE COME OUT OF  
8       PRISON AND MY REVIEW OF THE LITERATURE MAKE ME -- I FEEL  
9       I AM IN A POSITION TO ANSWER MR. ROSE'S QUESTION, THAT  
10      HIS CONDITION PUTS HIM AT RISK OF INJURY AND  
11      VICTIMIZATION AND PSYCHOLOGICAL REPERCUSSIONS.

12      Q.       DOCTOR, WITH RESPECT TO THE ISSUE OF RECIDIVISM,  
13      DR. CHANNEL'S REPORT SAYS THAT THE DEFENDANT IS AT  
14      AVERAGE RISK OF RECIDIVISM.

15                   MS. ROTELLA: OBJECTION.

16                   MR. ROSE: THAT'S WHAT IT SAYS.

17                   MS. ROTELLA: IT'S A MISCHARACTERIZATION.

18                   MR. ROSE: LET ME -- MAY I FINISH THE  
19      QUESTION?

20                   THE COURT: PLEASE FINISH IT.

21      BY MR. ROSE:

22      Q.       IT SAYS THAT HE IS AT AVERAGE RISK OF  
23      RECIDIVISM. BUT ALSO SAYS THAT HIS RISK OF RECIDIVISM  
24      MIGHT BE ELEVATED.

25                   DO YOU RECALL READING THAT?

1 A. YES.

2 Q. DO YOU KNOW WHAT -- WHAT IS YOUR ASSESSMENT OF  
3 THE RECIDIVISM ISSUE FOR THIS DEFENDANT?

4 A. WELL, THE RISK OF RECIDIVISM, THE AVERAGE THAT  
5 DR. CHANNELL IS REFERRING TO, IF LOOK AT THE ANALYSES,  
6 THE METAANALYSES OF ALL THE DIFFERENT STUDIES THAT HAVE  
7 BEEN DONE OR HAVE BEEN DONE TALKING ABOUT THE RISK OF  
8 RECIDIVATING FOR SEX OFFENDERS. THE FIRST THING WE  
9 NOTICE IS THAT IT'S LOWER THAN FOR ANY OTHER TYPE OF  
10 OFFENSE. AND OF COURSE THE LOWEST AMONG THE -- THE  
11 LOWEST RISK OF RECIDIVISM AMONG THE SEX OFFENDERS IS  
12 CHILD PORNOGRAPHY OFFENDERS.

13 INTERESTING RESEARCH THAT HAS BEEN  
14 DEVELOPED OVER THE LAST FEW YEARS HAS INDICATED  
15 SOMETHING THAT I WAS NOT AWARE OF UNTIL RECENTLY, AND  
16 THAT IS THAT IF A -- IF WE LOOK AT THE RISK OF  
17 RECIDIVISM OF CHILD PORNOGRAPHY INMATES OR CHILD  
18 CONVICTIONS, THOSE WITH CHILD PORNOGRAPHY CONVICTIONS  
19 ALSO MADE SEXUAL CONTACT WITH THE VICTIM. THE INCREASE  
20 RISK OF RECIDIVISM IS VERY SLIGHT. THE TYPICAL RISK OF  
21 RECIDIVATING FOR CHILD PORNOGRAPHY ONLY SEX OFFENDERS IS  
22 UNDER EIGHT PERCENT. THERE ARE STUDIES THAT SHOW THAT  
23 IF YOU LOOK AT IT FOR PEOPLE WITH CHILD PORNOGRAPHY AND  
24 CONTACT OFFENSES, THE RISK IS MORE AROUND 11 OR  
25 12 PERCENT. IT'S A SIGNIFICANT INCREASE, BUT STILL MUCH

1 LOWER THAN THE AVERAGE RISK OF RECIDIVISM FOR OTHER  
2 OFFENSES.

3 Q. DOCTOR, IN YOUR ASSESSMENT OF THIS MAN, HAS HE  
4 ACCEPTED RESPONSIBILITY FOR WHAT HE HAS BEEN PLEADING  
5 GUILTY TO?

6 A. HE HAD NO IDEA THAT HE WAS FACING CONSEQUENCES  
7 LIKE HE IS, IT WAS A RUDE AWAKING. AND OF COURSE, WITH  
8 HINDSIGHT, HE UNDERSTANDS THAT EVEN THOUGH HE KNEW IT  
9 WAS LEGALLY WRONG, HE DIDN'T KNOW HOW LEGALLY WRONG IT  
10 WAS. AND HE HAS COME TO UNDERSTAND HOW MORALLY WRONG IT  
11 WAS AND HOW THESE CHILDREN HAVE BEEN DAMAGED, AND HE HAS  
12 ACCEPTED RESPONSIBILITY. AND I READ HIS LETTER THAT HE  
13 PREPARED FOR THE COURT, AND I LISTENED TO HIM WHEN HE  
14 TOLD ME HOW HE FEELS ABOUT WHAT HE DID. UNFORTUNATELY,  
15 THAT LEVEL OF UNDERSTANDING AND INSIGHT AND SENSE OF  
16 RESPONSIBILITY WAS NOT THERE WHEN HE WAS ENGAGING IN  
17 THESE BEHAVIORS.

18 Q. AND FINALLY, DOCTOR, WITH RESPECT TO THE ISSUE  
19 OF TREATMENT, WHAT WOULD YOU LIKE TO SEE IN TERMS OF  
20 TREATMENT? COULD THIS DEFENDANT GET HELP THAT WOULD  
21 MAKE HIM LESS OF A RISK OF RE-OFFENDING?

22 A. ABSOLUTELY. THERE IS NO QUESTION. FIRST OF  
23 ALL, HE IS GOING TO NEED AND WOULD BENEFIT FROM SEX  
24 OFFENDER SPECIFIC TREATMENT, WHICH IS AVAILABLE WITHIN  
25 THE FEDERAL SYSTEM.

1 SECOND OF ALL, HE IS GOING TO NEED  
2 TREATMENT THAT WOULD BE DIRECTED TOWARD HIS THINKING  
3 PROBLEMS, JUDGMENT PROBLEMS, IMPULSIVITY, SOCIAL  
4 PROBLEMS. SEPARATE AND APART FROM THE SEXUAL TREATMENT  
5 NEEDS, THE AUTISM SPECTRUM SYMPTOMS CAN BE TREATED WITH  
6 THE APPROPRIATE TREATMENT. HE HAS THE ABILITY TO NOT  
7 ONLY EMPATHIZE WITH OTHER PEOPLE, HIS ABILITY TO BE MORE  
8 SELF AWARE, HIS ABILITY TO EXERCISE BETTER JUDGMENT WILL  
9 BE SIGNIFICANTLY ENHANCED.

10 Q. AND IN YOUR DISCUSSIONS OF THIS -- WITH YOUR  
11 COLLEAGUE DR. HAWORTH, DID YOU AND HE COME TO A  
12 CONCLUSION ABOUT HOW LONG SUCH A TREATMENT PROGRAM WOULD  
13 TAKE?

14           A.           IF WE ARE LOOKING AT THE SEX OFFENDER TREATMENT,  
15           YOU KNOW, 6 TO 9 MONTHS, MAYBE AS LONG AS 18 MONTHS IN  
16           THAT RANGE. IF WE TALK ABOUT THE TREATMENT FOR THE  
17           SOCIAL AND EMOTIONAL MANIFESTATIONS OF ASPERGER'S, HIS  
18           ANTI -- HIS AUTISM SPECTRUM DISORDER, THAT MIGHT TAKE  
19           LONGER, MAYBE A COUPLE OF YEARS OF TREATMENT.

20 Q. DOCTOR, IF HE WERE RELEASED TO THE COMMUNITY AT  
21 THE END OF A PERIOD OF CONFINEMENT HERE, COULD HE BE  
22 REASONABLY EXPECTED TO CONFORM HIS BEHAVIOR TO THE LAW  
23 SO THAT HE DOES NOT RE-OFFEND?

24           A.           YES.

25 MR. ROSE: THAT'S ALL I HAVE, YOUR HONOR.

1 THE COURT: MS. ROTELLA.

2 MS. ROTELLA: THANK YOU, YOUR HONOR.

3 CROSS-EXAMINATION

4 BY MS. ROTELLA:

5 Q. DR. ATKINS, AS I UNDERSTAND IT, YOU SAID YOU  
6 SPENT A TOTAL OF EIGHT HOURS WITH THIS DEFENDANT,  
7 CORRECT?

8 A. THAT'S CORRECT.

9 Q. YOU UNDERSTAND DR. CHANNELL, HE WAS AT THE  
10 MEDICAL FACILITY FOR OVER TWO MONTHS?

11 A. YES.

12 Q. AND I HAVE READ THROUGH YOUR REPORT. I DON'T  
13 SEE ANYWHERE THAT YOU ACTUALLY REVIEWED ANY OF THE  
14 EVIDENCE IN THIS CASE, IS THAT CORRECT?

15 A. I DID. I READ THE -- I DON'T KNOW WHETHER IT  
16 WAS CALLED THE AFFIDAVIT OF PROBABLE CAUSE TO THE  
17 INDICTMENT. I --

18 Q. YOU READ THE INDICTMENT?

19 A. I READ THE PRESENTENCE REPORT, LESLIE MAXWELL'S  
20 REPORT.

21 Q. OKAY.

22 A. I READ DR. CHANNELL'S REPORT AFTER THE FACT, OF  
23 COURSE. I SPOKE WITH BURT ABOUT HIS REVIEW OF THE  
24 ACTUAL IMAGES. WHEN I ACTUALLY WROTE THE REPORT, I  
25 THINK IT WAS PRIOR TO MY REVIEWING ANY PLEA AGREEMENTS,

1 BUT I DID GET TO READ THE PLEA AGREEMENTS.

2 Q. SO THAT WE ARE CLEAR, THE INDICTMENT DOES NOT  
3 CONTAIN ANY INFORMATION OTHER THAN THE CHARGES, CORRECT?

4 A. CORRECT.

5 Q. AND THE PRESENTENCE IS WRITTEN BY A UNITED  
6 STATES PROBATION OFFICER ABOUT THE WHOLE ASPECTS OF THE  
7 CASE, CORRECT?

8 A. YES.

9 Q. BUT THE FBI REPORTS WERE NOT REVIEWED BY YOU, IS  
10 THAT RIGHT?

11 A. I DON'T RECALL.

12 Q. YOU CAN'T REMEMBER.

13 AND YOU DIDN'T LIST THEM IN YOUR REPORT?

14 A. NO. IF I HAD READ THAT BEFORE I WROTE MY REPORT  
15 I WOULD HAVE LISTED IT, SO I PROBABLY DIDN'T.

16 Q. AND YOU DIDN'T REVIEW THE CHATS THAT MR. SHORE  
17 WAS ENGAGING IN WITH ALL OF THESE MINORS, CORRECT?

18 A. CHARACTERIZATIONS OF THEM THAT WERE CONTAINED  
19 WITHIN THE INDICTMENT.

20 Q. THERE ARE NO CHATS IN THE INDICTMENT.

21 A. I DO REMEMBER READING THE CHATS.

22 Q. THE CHATS THEMSELVES OR ARE YOU SPEAKING ABOUT  
23 THE PRESENTENCE REPORT THAT YOU REVIEWED?

24 A. I THINK I READ THE CHATS THEMSELVES. I DON'T  
25 RECALL WHETHER IT WAS BEFORE THE PRESENTENCE REPORT OR

1 NOT.

2 Q. WHEN YOU WRITE A REPORT AND DO AN EVALUATION,  
3 ISN'T IT STANDARD PRACTICE TO ACTUALLY LIST OUT ALL OF  
4 THE THINGS THAT YOU HAVE REVIEWED SO THAT WHEN YOU HAVE  
5 TO TESTIFY OR WHEN YOU HAVE TO BASE YOUR OPINION ON  
6 SOMETHING WE CAN ALL JUDGE INDEPENDENTLY WHAT YOU HAVE  
7 USED TO FORM YOUR OPINION?

8 A. TYPICALLY, ABSOLUTELY.

9 Q. THAT'S NOT CONTAINED IN YOUR REPORT, IS IT, DR.  
10 ATKINS?

11 A. I DON'T UNDERSTAND WHY I DIDN'T -- IF I HAD READ  
12 THOSE THINGS WHY I DIDN'T LIST THEM. THAT'S WHY I AM  
13 SAYING IT IS POSSIBLE THAT I DIDN'T REVIEW THOSE THINGS  
14 UNTIL AFTER I WROTE THIS REPORT. BUT I KNOW THAT I SAW  
15 THEM.

16 Q. YOU KNOW THAT YOU SAW THE ACTUAL CHATS?

17 A. I DID SEE CHATS, YES.

18 Q. OKAY. YOU DID NOT REVIEW THE FBI REPORTS,  
19 CORRECT?

20 A. I DON'T KNOW. I DON'T RECALL.

21 Q. YOU DON'T REMEMBER IF YOU DID.

22 IT'S CLEAR YOU DID NOT SEE THE EVIDENCE  
23 IN THIS CASE, HOWEVER?

24 A. THAT'S CORRECT.

25 Q. AND YOU DID NOT REACH OUT TO THE AGENT OR ANYONE



1 FROM THE GOVERNMENT TO ACTUALLY DO THAT BEFORE YOU  
2 FORMED YOUR OPINION IN THIS CASE, CORRECT?

3 A. NO, I RELIED UPON MR. ROSE'S CHARACTERIZATION OF  
4 WHAT HE SAW.

5 Q. DID YOU KNOW HOW MANY IMAGES -- NOW, THERE IS  
6 TWO ASPECTS TO MR. SHORE'S CRIMES HERE. HE WAS  
7 COMMUNICATING WITH MULTIPLE MINOR GIRLS ON THE INTERNET  
8 AND GETTING THEM TO ENGAGE IN SEXUALLY EXPLICIT CONDUCT  
9 AND THEN SEND IT TO HIM, CORRECT?

10 A. THAT'S CORRECT.

11 Q. AND THEN HE HAD QUITE AN EXTENSIVE COLLECTION OF  
12 CHILD PORNOGRAPHY. YOU ARE AWARE OF THAT AS WELL,  
13 RIGHT?

14 A. I AM.

15 Q. DO YOU KNOW HOW EXTENSIVE HIS COLLECTION OF  
16 CHILD PORNOGRAPHY WAS?

17 A. I KNOW THERE WERE THOUSANDS OF IMAGES.

18 Q. AND THAT WAS REPRESENTED TO YOU BY MR. ROSE  
19 BECAUSE, OF COURSE, YOU DID NOT SEE THOSE EITHER?

20 MR. ROSE: OBJECTION, YOUR HONOR. IT'S  
21 IN THE PRESENTENCE REPORT THAT MR. --

22 THE COURT: I UNDERSTAND THAT.

23 BY MS. ROTELLA:

24 Q. THE QUESTION IS, DID YOU GAIN YOUR KNOWLEDGE  
25 FROM MR. ROSE?

1       A.           A COMBINATION OF INPUTS.  I READ THE CHATS, I  
2       READ DESCRIPTIONS OF WHAT WAS IN HIS COLLECTION, I SPOKE  
3       TO MR. ROSE, SO...

4       Q.           WELL, I ASKED YOU THAT BECAUSE YOU DID MAKE AN  
5       ERROR WHEN YOU TESTIFIED ON DIRECT BY SAYING THAT THE  
6       OVERWHELMING -- THEY ARE YOUR WORDS -- THE OVERWHELMING  
7       MAJORITY OF THE COLLECTION WAS POST-PUBESCENT CHILDREN.

8       A.           YES.

9       Q.           THAT'S CORRECT, ARE YOU AWARE OF THAT?

10      A.           NO, I AM NOT.

11      Q.           BECAUSE MOST OF HIS COLLECTION IS ACTUALLY  
12      PREPUBESCENT CHILDREN.

13      A.           THAT'S NOT SOMETHING I AM AWARE OF.  THAT'S NOT  
14      HOW IT WAS CHARACTERIZED TO ME.

15      Q.           DID YOU KNOW THAT THERE WAS A GREAT PROPORTION  
16      OF HIS COLLECTION THAT ALSO INVOLVED SADISTIC IMAGES OF  
17      CHILDREN, CHILDREN WHO WERE BOUND AND CRYING AND GAGGED  
18      AS THEY WERE BEING SEXUALLY ASSAULTED?

19      A.           WHAT IS YOUR DEFINITION OF GREAT PROPORTION?

20      Q.           SO AT LEAST HALF OF THOSE IMAGES, THAT'S WHAT I  
21      WOULD SAY.

22      A.           HALF OF THE IMAGES --

23      Q.           HALF OF THOSE IMAGES INVOLVED SADISTIC IMAGES,  
24      THINGS OF THAT NATURE?

25      A.           I CERTAINLY DID NOT KNOW THAT, AND I AM VERY

1       SURPRISED TO HEAR THAT.

2       Q.       DID YOU KNOW THAT THERE WERE ANY IN HIS  
3       COLLECTION?

4       A.       I DID.

5       Q.       DID YOU KNOW THAT THERE WERE IMAGES OF ANIMALS  
6       SEXUALLY ABUSING CHILDREN AS PART OF THE THINGS THAT HE  
7       CHOSE TO COLLECT?

8       A.       I DID KNOW THAT, YES.

9       Q.       AND DID YOU KNOW ALL ABOUT THAT BEFORE YOU WROTE  
10      YOUR REPORT?

11      A.       YES.

12      Q.       WERE YOU ALSO AWARE THEN -- AND YOU HAVE NOT  
13      TOUCHED UPON IT THAT MUCH, BUT WERE YOU ALSO AWARE THAT  
14      HIS COLLECTING OF THESE CHILD PORNOGRAPHIC IMAGES  
15      EXTENDED BACK 8 TO 10 YEARS?

16      A.       YES.

17      Q.       BECAUSE MR. SHORE HAS QUITE A LONG HISTORY OF  
18      INVOLVING HIMSELF IN CHILD SEXUAL ACTIVITY, ARE YOU  
19      AWARE OF THAT ALSO?

20      A.       I AM.

21      Q.       THERE WAS THE INCIDENT SEXUALLY INAPPROPRIATE  
22      TOUCHING WITH HIS OWN SISTER, CORRECT?

23      A.       YES.

24      Q.       THERE WAS PRIOR POLICE INVOLVEMENT AND THE  
25      SEIZURE OF HIS COMPUTER EQUIPMENT FOR CHILD PORNOGRAPHY

1 OFFENSES, CORRECT?

2 A. I AM AWARE OF THAT.

3 Q. THAT HE HAD -- THE FAMILY HAD A SPECIAL SET OF  
4 RULES FOR MR. SHORE NOT TO TOUCH CHILDREN WHILE HE WAS  
5 OUT WORKING AT THE FAMILY BUSINESS?

6 A. YES.

7 Q. AND THIS EXTENDED OVER MOST OF MR. SHORE'S LIFE,  
8 RIGHT?

9 A. WELL, IT STARTED WHEN HE DEVELOPED SEXUAL  
10 FEELINGS AND SEXUAL INTERESTS, YES.

11 Q. WHEN HE WAS JUST A TEENAGER?

12 A. YES.

13 Q. AND HERE HE IS IN HIS MID-30S NOW, CORRECT?

14 A. CORRECT.

15 Q. STILL DOING THE SAME TYPE OF ACTIVITY, TARGETING  
16 CHILDREN, CORRECT?

17 A. STILL --

18 MR. ROSE: OBJECTION TO THAT PART, YOUR  
19 HONOR.

20 THE COURT: OVERRULED.

21 THE WITNESS: HE IS STILL FUNCTIONING  
22 MUCH LIKE A TEENAGER HIMSELF IN INTERACTING LIKE A YOUNG  
23 TEENAGER INSTEAD OF LIKE SOMEONE HIS AGE.

24 BY MS. ROTELLA:

25 Q. LET'S TALK ABOUT THAT A LITTLE BIT, BECAUSE YOU

1 SAY THERE ARE MANIPULATIVE ASPECTS TO HIS CRIME. BUT  
2 REALLY QUITE CLEARLY, ALL OF HIS CRIMES INVOLVE  
3 MANIPULATION BY MR. SHORE, ISN'T THAT A FAIR  
4 CHARACTERIZATION?

5 MR. ROSE: OBJECTION.

6 THE COURT: SUSTAINED.

7 THE WITNESS: HIS COLLECTION OF CHILD  
8 PORNOGRAPHY --

9 MR. ROSE: DOCTOR --

10 THE COURT: I SUSTAINED THE OBJECTION.

11 MR. ROSE: HE SUSTAINED THE OBJECTION.

12 BY MS. ROTELLA:

13 Q. LET ME PUT IT THIS WAY, DR. ATKINS. YOU  
14 TESTIFIED THAT THERE WAS A MANIPULATIVE ASPECT, MEANING  
15 THAT THAT WAS NOT REALLY A PREVALENT PART OF WHAT MR.  
16 SHORE USED TO DO HIS CRIMES HERE, CORRECT?

17 A. WHAT I TESTIFIED TO WAS THAT THERE WAS SOME  
18 DEGREE OF MANIPULATION --

19 Q. YES.

20 A. -- BUT NOT THE LEVEL OF SOPHISTICATION THAT WE  
21 TYPICALLY SEE IN THE COMMISSION OF THESE OFFENSES.

22 Q. OKAY. SO YOU SAY -- AND PART OF THAT IS BECAUSE  
23 YOU BELIEVED HIM TO BE TRANSPARENT BECAUSE HE GAVE HIS  
24 AGE AND HIS NAME TO SOME OF THESE CHILDREN, CORRECT?

25 A. VERY OFTEN HE DID.

1 Q. VERY OFTEN, BUT HE DID NOT ALWAYS?

2 A. NOT ALWAYS, THAT'S CORRECT.

3 Q. RIGHT. BECAUSE IN SOME CASES HE ACTUALLY POSED  
4 AS IF HE WERE A TEENAGE GIRL, CORRECT?

5 A. MUCH OF HIS INTERACTIONS WITH OTHER PEOPLE WERE  
6 THROUGH POSING AS HIM BEING SOMETHING ELSE. HE MET  
7 PEOPLE WEARING A COSTUME. HE INTERACTED WITH PEOPLE  
8 VERY OFTEN ON THE INTERNET AS BEING A CHARACTER OR A  
9 DIFFERENT PERSON, OF A DIFFERENT SEX, OF A DIFFERENT  
10 AGE. BUT MOST OF THE CHATS WITH SOMEBODY THAT HE WAS  
11 TRYING TO ESTABLISH SOME KIND OF A RELATIONSHIP WITH OR  
12 CONNECTION WITH, HE INTERACTED AS HIMSELF IN THE  
13 MAJORITY OF THOSE.

14 Q. SO IN THOSE HE WAS TRANSPARENT, BUT THERE ARE  
15 ALSO TIMES WHEN HE IS NOT TRANSPARENT?

16 A. WHERE HE WAS ROLE PLAYING, YES.

17 Q. YES, WHERE HE WAS ROLE PLAYING, WHERE HE WAS NOT  
18 BEING FORTHRIGHT ABOUT WHO HE WAS?

19 A. WHICH WOULD BE TYPICAL OF ANYBODY CHATTING ON  
20 THE INTERNET, WHETHER THEY ARE ENGAGED IN OFFENDING OR  
21 NOT. MOST PEOPLE ARE ENGAGING IN ROLE PLAYING.

22 Q. JUST LIKE MOST SEX OFFENDERS, CORRECT?

23 A. INCLUDING SEX OFFENDERS.

24 Q. SO PART OF HIS MANIPULATION AND PART OF HIS ROLE  
25 PLAYING IN THESE CRIMES WAS TO POSE AS A TEENAGE GIRL SO

1        THAT HE COULD MANIPULATE SOME OF THE PEOPLE HE WAS  
2        SPEAKING WITH INTO GIVING HIM SEXUALLY EXPLICIT IMAGES  
3        OF THEMSELVES?

4        A.            YES.

5        Q.            AND PART OF THAT MANIPULATION AND ROLE PLAYING,  
6        YOU ARE AWARE THAT HE ACTUALLY SENT OUT PHOTOGRAPHS OF  
7        SOME OF THE MINOR VICTIMS PRETENDING THAT THEY WERE OF  
8        HIM?

9        A.            YES.

10      Q.            WHICH IS ANOTHER CRIME, YOU WOULD AGREE, THE  
11      DISTRIBUTION OF CHILD PORNOGRAPHY?

12      A.            YES.

13      Q.            SO THE MANIPULATION THAT WE SPEAK ABOUT HERE  
14      INCLUDED FOR MR. SHORE LIES AS WELL?

15      A.            CLEARLY THAT'S PART OF THE DEFINITION OF  
16      MANIPULATION, TO GET THE PERSON TO BELIEVE SOMETHING YOU  
17      WANT THEM TO BELIEVE, BY DEFINITION, INCLUDING LYING.

18      Q.            AND ACTUALLY MR. -- THERE WERE -- SOME OF THE  
19      CHATS INVOLVED SHOWED MR. SHORE TALKING ABOUT THE FACT  
20      THAT HE KNEW THAT HE WAS LYING AND THAT HE KNEW HE  
21      SHOULD NOT BE LYING, THAT IT WAS WRONG TO LIE. BUT I  
22      BELIEVE THERE IS A QUOTE BY HIM SAYING THAT SOMETIMES HE  
23      HAS TO LIE IN ORDER TO GET THE THINGS THAT HE WANTS.

24      A.            HE WAS MUCH MORE TRANSPARENT IN ACKNOWLEDGING  
25      THAT THAN MOST PEOPLE WHO COMMIT THESE OFFENSES FOR

1 SURE.

2 Q. THAT WASN'T -- MAYBE HE DID SAY THAT TO YOU, BUT  
3 WE DISCOVERED THAT AS PART OF THE CHATS THAT HE WAS  
4 HAVING WITH SOME OF HIS VICTIMS.

5 A. YES.

6 Q. ARE YOU AWARE OF THAT?

7 A. THAT'S AN EXAMPLE OF HIS LEVEL OF -- THE LACK OF  
8 SOPHISTICATION THAT HE WOULD ACKNOWLEDGE THOSE KINDS OF  
9 INTENTIONS.

10 Q. WELL, HE CLEARLY DID NOT ACKNOWLEDGE THOSE KINDS  
11 OF INTENTIONS TO THE PEOPLE THAT HE WAS TRYING TO  
12 MANIPULATE, HIS VICTIMS, CORRECT?

13 A. MOST LIKELY NOT.

14 Q. IN TERMS OF HIS LACK OF EMPATHY AND LACK OF  
15 REMORSE, YOU WOULD AGREE WITH ME THAT MOST SEX OFFENDERS  
16 HAVE A LACK OF EMPATHY AND A LACK OF REMORSE FOR THEIR  
17 ACTIONS?

18 A. YES.

19 Q. SO THAT'S NOT -- THAT'S NOT SPECIFIC TO SOMEBODY  
20 WHO HAS GOT AUTISM SPECTRUM DISORDER?

21 A. LET ME BACK UP. LACK OF REMORSE ALMOST  
22 DEFINITELY IS A TYPICAL ATTRIBUTE TO WHAT WE WOULD --  
23 FOR MOST SEX OFFENDERS. THE LACK OF EMPATHY, I AM NOT  
24 SO SURE. I DON'T THINK MOST SEX OFFENDERS LACK EMPATHY.  
25 MANY OF THEM ARE CAPABLE OF EMPATHY BUT ARE MORE



1       INDIFFERENT TO THE FACT THAT THEY ARE DOING SOMETHING  
2       THAT MIGHT HARM THE VICTIM.

3       Q.       I AM NOT ASKING YOU IF THEY ARE CAPABLE OF  
4       EMPATHY.   EVERY PERSON ON EARTH IS CABLE OF EMPATHY,  
5       DOCTOR.

6                       WHAT I AM SAYING IS MOST SEX OFFENDERS --  
7       THE COURT:   IS THAT SO?

8       BY MS. ROTELLA:

9       Q.       MOST ALL OF US.   BUT MOST SEX OFFENDERS HAVE A  
10      LACK OF EMPATHY WHICH THEY WOULD HAVE TO NECESSARILY  
11      HAVE TO BE ABLE TO OFFEND AGAINST A CHILD.   WOULDN'T YOU  
12      AGREE WITH THAT?

13      A.       I WOULD SAY THAT MORE LIKELY -- IT IS LIKELY  
14      THAT THERE IS SOME DEFICIENCY IN EMPATHY AMONG SEX  
15      OFFENDERS.

16                       THE COURT:   A SOCIOPATH, RIGHT?

17                       THE WITNESS:   THE SOCIOPATH HAS A MUCH  
18      MORE -- THEY LACK EMPATHY TO A MUCH GREATER DEGREE THAN  
19      PEOPLE WHO ARE NOT SOCIOPATHS.   THAT'S ONE OF THE  
20      CRITERIA FOR DIAGNOSING ANTISOCIAL PERSONALITY DISORDER  
21      IS THE LACK OF EMPATHY.

22      BY MS. ROTELLA:

23      Q.       WE ARE NOT TALKING ABOUT A SOCIOPATH, BUT WE ARE  
24      TALKING ABOUT A SEX OFFENDER WHO ALSO HAPPENS TO HAVE  
25      AUTISM SPECTRUM DISORDER?

1 A. THAT'S CORRECT.

2 Q. SO WHEN YOU ARE TALKING ABOUT -- WHEN YOU WERE  
3 TALKING ABOUT THE FACT THAT YOU MOSTLY DISAGREE WITH THE  
4 DIAGNOSIS OF PEDOPHILIA, THERE ARE ACTUALLY TWO  
5 DIFFERENT WAYS TO DIAGNOSE SOMEBODY WITH PEDOPHILIA, AND  
6 THAT WOULD BE IF HE TOLD YOU HIMSELF THAT HE HAS AN  
7 INTEREST IN PREPUBESCENT CHILDREN, CORRECT?

8 A. YES.

9 Q. OR IF THERE IS SUFFICIENT EVIDENCE TO SHOW THAT  
10 HE HAS AN INTEREST IN PREPUBESCENT CHILDREN?

11 A. YES.

12 Q. BUT THEN FOR THOSE PEOPLE WHO DENY HAVING THAT  
13 SEXUAL INTEREST, THAT'S NOT REALLY THAT UNCOMMON EVEN  
14 WHEN THEY ACTUALLY DO?

15 A. THAT'S CORRECT.

16 Q. THERE ARE ALSO SOME PHYSICAL TESTS THAT CAN BE  
17 DONE?

18 A. YES.

19 Q. AND FURTHER TESTING, FOR EXAMPLE, LIKE A  
20 POLYGRAPH, CORRECT?

21 A. YES, AND THE PENIS PLETHYSMOGRAPH AND THE ABEL  
22 SCREENING.

23 Q. AND THE POLYGRAPH LIKE I JUST TOLD YOU, CORRECT?

24 A. YES.

25 Q. YOU DIDN'T WRITE ABOUT THE ABEL SCREENING IN

1 YOUR REPORT, DID YOU, DOCTOR?

2 A. I DID.

3 Q. YOU DID? WHERE IS THAT?

4 A. I DON'T SEE IT, BUT I SPECIFICALLY MENTIONED  
5 THAT I HAD DR. HAWORTH CONDUCT AN ASSESSMENT. I AM  
6 ALMOST CERTAIN THE RESULTS OF THAT WOULD BE IN HERE,  
7 BECAUSE HIS ASSESSMENT INDICATED THAT HE HAD -- DID NOT  
8 HAVE A SEXUAL INTEREST IN PREPUBESCENCE.

9 Q. AND OF COURSE, DOCTOR -- WELL, I HAVE NOTHING TO  
10 JUDGE IT BY SINCE I DON'T SEE IT HERE IN THE REPORT.

11 THE COURT: DO YOU HAVE THE FILE WITH  
12 YOU?

13 THE WITNESS: NO, I DON'T HAVE THE FILE  
14 WITH ME.

15 BY MS. ROTELLA:

16 Q. BUT YOU HAVE YOUR REPORT IN FRONT OF YOU?

17 A. THAT'S WHAT I AM LOOKING FOR.

18 THE COURT: IT'S NOT IN THE REPORT.

19 MS. ROTELLA: NO.

20 THE COURT: IF HE HAD HIS FILE WE WOULD  
21 SEE IT.

22 THE WITNESS: I CERTAINLY CAN MAKE  
23 AVAILABLE TO THE COURT DR. HAWORTH'S REPORT THAT --

24 THE COURT: WHY DIDN'T YOU BRING THE FILE  
25 WITH YOU?

1 THE WITNESS: PARDON ME?

2 THE COURT: WHY DIDN'T YOU BRING THE FILE  
3 WITH YOU?

4 THE WITNESS: I BELIEVED THE RELEVANT  
5 INFORMATION WAS CONTAINED IN BOTH MY REPORT AND DR.  
6 CHANNEL'S REPORT WHICH I BROUGHT WITH ME THAT HAD AN  
7 EVEN GREATER HISTORY, A MORE DETAILED HISTORY.

8 BY MS. ROTELLA:

9 Q. ALL RIGHT. WELL, WHY DON'T WE JUST -- WE CAN  
10 MOVE ON, SINCE THAT'S NOT ANYTHING THAT IS CONTAINED IN  
11 THERE.

12 BUT THERE WAS NO POLYGRAPH THAT WAS  
13 CONDUCTED OF THIS DEFENDANT, CORRECT?

14 A. YES, CORRECT.

15 Q. THERE WAS PLETHYSMOGRAPH, NO PHYSICALLY TESTING  
16 THAT WOULD HAVE ACTUALLY SHOWN -- THAT'S PROBABLY THE  
17 BEST INDICATOR TO SHOW WHAT HE IS AROUSED BY, CORRECT?

18 A. THERE IS SOME CONTROVERSY ABOUT THE VALIDITY OF  
19 THAT.

20 THE COURT: WHICH ONE WAS THAT?

21 MS. ROTELLA: THE PLETHYSMOGRAPH.

22 BY MS. ROTELLA:

23 Q. YOU WOULD AGREE IT'S STILL USED VERY WIDELY AND  
24 COMMONLY, CORRECT?

25 A. IT'S MUCH LESS WIDELY USED THAN WHEN IT WAS

1 FIRST DEVELOPED. THERE ARE PROBLEMS WITH THE VALIDITY  
2 OF THAT, AND IT IS SOMEWHAT CONTROVERSIAL TO SOME  
3 EXTENT. BUT IT IS ONE OF THE ACCEPTED MEASURES OF  
4 SEXUAL INTEREST.

5 Q. YES, THAT'S WHAT I WAS GETTING AT.

6 BUT THAT WAS NOT DONE BY YOU OR DR.  
7 HAWORTH IN THIS CASE, CORRECT?

8 A. NO.

9 Q. SO YOU TALKED ABOUT HIS RISK OF RECIDIVISM. IN  
10 TERMS OF A PERSON'S RISK OF RECIDIVISM THOUGH, PART OF  
11 WHAT WOULD FACTOR INTO THERE WOULD BE WHETHER OR NOT  
12 THEY HAD EMPATHY OR REMORSE OR LACK THEREOF. IS THAT  
13 CORRECT?

14 A. YES, THAT'S CERTAINLY CORRECT. ONE OF THE  
15 QUESTIONS IN ANY SEX OFFENDER TREATMENT PROGRAM OR ONE  
16 OF THE COMPONENTS IN ANY SEX OFFENDER TREATMENT PROGRAM  
17 IS CALLED VICTIM EMPATHY COMPONENTS. AND THAT IS THAT  
18 THE ASSUMPTION IS, AS YOU STATED EARLIER AND I AGREED,  
19 WITH LACK OF EMPATHY IS A TYPICAL COMPONENT IN ANY  
20 SEXUAL OFFENDING. ANY TREATMENT, THEREFORE, INCLUDES  
21 WORK ON HELPING TO IMPROVE THE ABILITY TO HAVE EMPATHY.  
22 THE KIND OF WORK THAT -- THE KIND OF TREATMENT THAT IS  
23 AVAILABLE TO PEOPLE ON THE AUTISM SPECTRUM ALSO  
24 SPECIFICALLY TARGETS EMPATHY TRAINING. SO IT IS  
25 SOMETHING THAT CAN BE ENHANCED WITH THE APPROPRIATE

1 TREATMENT.

2 Q. THAT'S WHAT YOU WOULD HOPE FOR EVERY OFFENDER IF  
3 THEY ARE EVER GOING TO GET OUT OF JAIL, CORRECT?

4 A. YES.

5 Q. SO IT'S NOT SPECIFIC TO MR. SHORE, THAT'S WHAT  
6 YOU WOULD HOPE FOR ANYBODY?

7 A. A, FOR ANYBODY; B, FOR SOMEBODY WHO COMMITS A  
8 SEXUAL OFFENSE; AND C, MORE PARTICULARLY FOR SOMEBODY  
9 WHO HAS THE SOCIAL DEFICITS ASSOCIATED WITH AUTISM.

10 Q. RIGHT, BECAUSE RIGHT NOW HE DOES NOT HAVE THOSE  
11 THINGS, THAT'S WHAT FACTORED INTO ALLOWING HIM TO COMMIT  
12 THESE OFFENSES?

13 A. THAT'S CORRECT.

14 MR. ROSE: OBJECTION.

15 MS. ROTELLA: HE IS OFFERING HIS OPINION.

16 THE COURT: GO AHEAD.

17 MS. ROTELLA: THANK YOU, YOUR HONOR.

18 BY MS. ROTELLA:

19 Q. SO --

20 THE COURT: HE ALREADY ANSWERED, DIDN'T  
21 HE?

22 MS. ROTELLA: HE DID.

23 BY MS. ROTELLA:

24 Q. SO YOU TALKED ABOUT IN TERMS OF HIS RECIDIVISM  
25 THAT HIS -- THOSE WHO HAVE CHILD PORNOGRAPHY OFFENSES

1 ARE AT LOWEST RISK FOR RISK OF RECIDIVISM?

2 A. YES.

3 Q. BUT THAT'S NOT MR. SHORE, CORRECT?

4 A. THAT'S PART OF IT, BUT I ALSO INDICATED THAT THE  
5 RECIDIVISM RISK FOR PEOPLE WITH CHILD PORNOGRAPHY AND  
6 CONTACT OFFENSES IS STILL MUCH LOWER THAN A RISK OF  
7 RECIDIVISM FOR MOST OTHER OFFENSES. IT'S FOUND TO BE  
8 AROUND 12 TO 13 PERCENT.

9 Q. WHICH IS DOUBLED FOR THOSE WHO ARE ONLY INVOLVED  
10 IN CHILD PORNOGRAPHY, CORRECT?

11 A. WHICH IS CLOSE TO 80 PERCENT.

12 Q. SO EVEN THE 11 OR 12 PERCENT RECIDIVISM RATE  
13 THAT YOU QUOTE FROM WHATEVER SOURCE YOU ARE TALKING  
14 ABOUT, EVEN THAT RECIDIVISM RATE DOES NOT TAKE INTO  
15 ACCOUNT SOMEBODY WHO HAS GOT SAY MORE THAN HALF OF HIS  
16 LIFE SPENT INVOLVED IN OTHER CHILD SEX OFFENSES?

17 A. IT MAY OR MAY NOT. WE DON'T KNOW ABOUT THE  
18 HISTORY OF THOSE PEOPLE IN THE STUDIES WHO HAVE  
19 COMMITTED BOTH CHILD PORNOGRAPHY AND CONTACT OFFENSES.

20 Q. ACTUALLY, DR. ATKINS, ISN'T THERE A WIDE BODY OF  
21 KNOWLEDGE THAT TALKS ABOUT EVEN THOSE WHO ARE ONLY  
22 CONVICTED OF CHILD PORNOGRAPHY OFFENSES WHEN THEY HAVE  
23 BEEN GIVEN POLYGRAPH EXAMINATIONS LATER MORE THAN  
24 50 PERCENT ACTUALLY ADMIT TO -- OR I THINK IT'S  
25 80 PERCENT. IT'S SOME HIGH PERCENTAGE THAT TALKS ABOUT

1       HOW THEY ACTUALLY HAVE HAD MANY CONTACT OFFENSES IN THE  
2       PAST AS WELL?

3       A.           YOU SAID WIDE BODY OF LITERATURE? I CAN TELL  
4       YOU SPECIFICALLY WHY I DISAGREE WITH THAT STATEMENT.

5       Q.           BUT THAT WAS NOT THE QUESTION.

6       A.           YOU ASKED ME IF I WOULD AGREE THAT THERE IS A  
7       WIDE BODY OF LITERATURE.

8                   THE COURT:   AND YOU DISAGREE?

9                   THE WITNESS:   AND I DISAGREE.

10                  MS. ROTELLA:   OKAY.

11       BY MS. ROTELLA:

12       Q.           ALL RIGHT.   THERE ARE STUDIES -- PERHAPS IT WAS  
13       AN INARTFULLY WORDED QUESTION, BUT THERE ARE STUDIES  
14       THAT ARE RECOGNIZED IN YOUR FIELD THAT ALSO RECOGNIZE  
15       THAT OFFENDERS WHEN THEY ARE CAUGHT EVEN JUST FOR CHILD  
16       PORNOGRAPHY OFFENSES ALSO HAVE CONTACT OFFENSES IN THEIR  
17       BACKGROUND?

18       A.           YOU SPECIFICALLY TALKED ABOUT A -- AS MUCH AS  
19       50 PERCENT OF THEM, I THINK WAS THE FIGURE YOU GAVE,  
20       CORRECT?

21                   I DISAGREE.

22       Q.           OKAY.

23       A.           THERE ARE -- THERE WAS ONE STUDY THAT FOUND THAT  
24       HIGH RESULT, IT'S A STUDY THAT HAS BEEN REFERRED TO AS  
25       THE BUTLER STUDY.   AND THAT STUDY HAS BEEN DEBUNKED TO



1 THE POINT WHERE EVEN SOME OF THE AUTHORS OF THAT STUDY  
2 HAVE AGREED THAT IT WAS AN EXTREMELY FLAWED STUDY. THE  
3 PEOPLE WHO WERE -- THE SUBJECTS OF THAT STUDY WERE  
4 INMATES WHO WERE BEING TOLD THAT IF THEY DON'T ADMIT TO  
5 THAT, THEY WERE NOT GOING TO BE ABLE TO COMPLETE THE  
6 PROGRAM. AND THEY HAD TO COMPLETE THE PROGRAM TO BE  
7 ELIGIBLE FOR EARLY RELEASE OR REDUCED RESTRICTIONS OR  
8 WHATEVER. IT'S AN INCENTIVE FOR THEM TO ACKNOWLEDGE  
9 CONTACT OFFENSES, AND IT COMPLETELY INVALIDATED THE  
10 STUDY.

11 Q. WELL, FORTUNATELY FOR US, DR. ATKINS, WE DON'T  
12 REALLY HAVE TO RELY ON THE STUDIES BECAUSE WE HAVE  
13 PLENTY OF EVIDENCE THAT SHOWED EXACTLY WHAT MR. SHORE  
14 HAS DONE FOR MOST OF HIS LIFE, CORRECT?

15 MR. ROSE: OBJECTION.

16 MS. ROTELLA: RIGHT?

17 THE COURT: OVERRULED.

18 THE WITNESS: I'M SORRY, SAY THAT AGAIN.

19 BY MS. ROTELLA:

20 Q. I SAID FORTUNATELY FOR US WE DON'T NEED TO RELY  
21 ON THE STUDIES BECAUSE WE KNOW EXACTLY MUCH OF WHAT MR.  
22 SHORE HAS DONE OVER MOST OF HIS LIFE IN TERMS OF CHILD  
23 SEX OFFENSES.

24 A. WE ARE AWARE OF THAT, YES.

25 Q. YES, WE ARE AWARE OF THAT HISTORY. AND HISTORY

1       MANY TIMES IS OFTEN THE BEST INDICATOR OF WHAT IS GOING  
2       TO HAPPEN IN THE FUTURE.   YOU WOULD AGREE WITH THAT?

3                   MR. ROSE:   OBJECTION.

4                   THE COURT:   OVERRULED.

5                   THE WITNESS:   IF WE LOOK AT THINGS IN  
6       ISOLATION, PERHAPS HISTORY IS THE BEST PREDICTOR.   BUT  
7       IF WE LOOK AT THE HISTORY IN TERMS OF WHAT IT -- THE  
8       KINDS OF INTERVENTIONS ARE GOING TO BE BROUGHT TO BEAR,  
9       WHAT INFLUENCES ARE GOING TO NOW BE ADDED TO THE MIX IN  
10      TERMS OF TREATMENT, IN TERMS OF SUPERVISION, IN TERMS OF  
11      THE OPPORTUNITY TO LEARN ABOUT THE DANGERS -- THE  
12      DAMAGES THAT HE CREATED THAT HE WAS NOT AWARE OF, THAT  
13      HISTORY IS NOT NECESSARILY THE BEST PREDICTOR.

14      Q.         DR. ATKINS, REALLY, IS IT FAIR TO SAY THAT HE  
15      WAS NOT AWARE OF IT?   I MEAN, HE HAS FAMILY SUPPORT,  
16      THEY ARE ALL HERE TODAY, CORRECT?

17      A.         YES.

18      Q.         HIS FAMILY WAS INVOLVED.   IN FACT, ONE MEMBER OF  
19      HIS FAMILY WAS ACTUALLY HIS VICTIM?

20      A.         YES.

21      Q.         YES.   AND HIS FAMILY HAS TALKED TO HIM ABOUT  
22      THIS FOR MANY YEARS, YOU WOULD AGREE WITH THAT?

23      A.         I CERTAINLY UNDERSTAND THAT.

24      Q.         IT'S A LITTLE UNFAIR TO SAY NOW HE IS GOING TO  
25      BE TAUGHT AT THIS POINT IN TIME WHERE THERE HAVE BEEN

1 INTERVENTIONS --

2 THE COURT: DO YOU HAVE A QUESTION?

3 BY MS. ROTELLA:

4 Q. ON HIS BEHALF, ISN'T THAT RIGHT?

5 MR. ROSE: OBJECTION.

6 THE COURT: SUSTAINED.

7 BY MS. ROTELLA:

8 Q. IN TERMS THEN OF HIS ABILITY TO POKE AT THE  
9 BUREAU OF PRISONS, YOU ARE AWARE THAT EVEN WHEN HE WAS  
10 PLACED ON THE -- IN THE MEDICAL FACILITY THAT HE WAS  
11 TRANSFERRED TO AN OPEN UNIT AFTER A FEW WEEKS?

12 A. YES.

13 Q. BECAUSE HE WAS ABLE TO ADJUST, CORRECT?

14 MR. ROSE: OBJECTION TO THAT PART.

15 THE COURT: SUSTAINED.

16 BY MS. ROTELLA:

17 Q. ARE YOU AWARE OF WHY HE WAS TRANSFERRED TO THE  
18 OPEN FACILITY?

19 A. I AM NOT AWARE.

20 Q. OKAY. WELL, YOU HAVE TALKED ABOUT HIS WAY OF  
21 COPING IN PRISON THUS FAR. HE HAS BEEN IN JAIL FOR  
22 APPROXIMATELY A YEAR, IS THAT CORRECT?

23 A. YES.

24 Q. AND HE IS IN GENERAL POPULATION, ARE YOU AWARE  
25 OF THAT?

1       A.           YES.    UNLESS I AM MISTAKEN, HIS TIME HAS BEEN  
2       SPENT -- SINCE HE HAS BEEN PLACED IN GENERAL POPULATION,  
3       HIS TIME HAS BEEN SPENT ISOLATED IN HIS ROOM, NOT  
4       INVOLVED IN INTERACTION WITH HIS OTHER INMATES.  THAT  
5       MAY HAVE CHANGED SINCE I LAST SAW HIM, BUT THAT WAS MY  
6       UNDERSTANDING.

7       Q.           BUT THAT'S WHAT MR. SHORE TOLD YOU?

8       A.           THAT'S CORRECT.

9       Q.           AND THAT'S MR. SHORE'S DECISION TO DO THAT, HE  
10      WAS NOT PLACED IN HIS CELL BY HIMSELF BY THE BUREAU OF  
11      PRISONS?

12     A.           OF COURSE NOT.

13     Q.           SO HE IS IN GENERAL POPULATION, CORRECT?

14     A.           YES, I BELIEVE SO.

15     Q.           AND SO I DON'T THINK WE ESTABLISHED THIS FOR THE  
16     RECORD.  YOU WERE HIRED BY THE DEFENSE, CORRECT?

17     A.           YES.

18     Q.           AND PAID BY THE DEFENSE TO EVALUATE MR. SHORE,  
19     TO AUTHOR YOUR REPORT?

20     A.           YES.

21     Q.           AND ALSO PAID FOR YOU TO COME HERE AND TESTIFY?

22     A.           YES.

23     Q.           AND HOW MUCH IS IT THAT YOU WERE PAID,  
24     DR. ATKINS?

25     A.           I DON'T RECALL EXACTLY.  MY BEST ESTIMATE WOULD

1 BE THAT IT WAS SOMEWHERE AROUND -- INCLUDING COMING HERE  
2 TODAY MAYBE CLOSE TO \$10,000.

3 Q. ALL RIGHT.

4 MS. ROTELLA: THAT'S ALL I HAVE, YOUR  
5 HONOR, THANK YOU.

6 THE COURT: ANY REDIRECT?

7 MR. ROSE: YES.

8 REDIRECT EXAMINATION

9 BY MR. ROSE:

10 Q. DOCTOR, DID YOU NOTE THAT THE -- WHEN WE WERE  
11 VISITING THE DEFENDANT, DID YOU KNOW HE WAS IN THE  
12 MEDICAL UNIT, SEVEN SOUTH, THE PSYCHIATRIC UNIT?

13 A. YES.

14 Q. NOT IN GENERAL POPULATION?

15 A. MY ANSWER WAS THAT HE MAY HAVE -- THAT MAY HAVE  
16 HAPPENED SINCE I LAST SAW HIM.

17 Q. THIS DR. HAWORTH REPORT, DO YOU HAVE THAT  
18 AVAILABLE FOR US?

19 A. I DO.

20 Q. AND YOU CAN PRODUCE THAT?

21 A. ABSOLUTELY.

22 Q. I WOULD LIKE TO JUST BRIEFLY TOUCH ON THE THING  
23 WITH ZIPPERS. DO YOU REMEMBER THE ISSUE WITH THE  
24 ZIPPERS?

25 A. I DO.

1 Q. CAN YOU TELL THE JUDGE WHAT THAT WAS ABOUT, IF  
2 YOU RECALL?

3 A. HE TOOK THE PURSES OF GIRLS IN HIS CLASS AND  
4 TOOK THEM HOME WITH HIM --

5 THE COURT: AND THEY FOUND THEM UNDER THE  
6 BED IN HIS ROOM AND THEY ALL HAD THEIR CONTENTS IN TACT,  
7 THE ONLY THING MISSING WAS THE ZIPPERS.

8 THE WITNESS: TOOK THE WORDS RIGHT OUT OF  
9 MY MOUTH.

10 BY MR. ROSE:

11 Q. WHAT DOES THAT TELL YOU ABOUT HIM?

12 A. PART OF HIS COLLECTING, PART OF HIS OBSESSION,  
13 HIS NEED TO FOLLOW THROUGH IN AN OBSESSIVE WAY WITH  
14 WHATEVER IT IS THAT HE BECOMES FIXATED ON.

15 Q. NOW, DOCTOR, YOU READ THE PRESENTENCE REPORT,  
16 CORRECT?

17 A. YES.

18 Q. AND I THINK WE CAN AGREE THAT THIS REPORT HAS  
19 MULTIPLE PARAGRAPHS AND PAGES AND PAGES OF ALL OF THE  
20 FACTS INVOLVED IN THIS CASE?

21 A. ABSOLUTELY.

22 MS. ROTELLA: HOW WOULD HE KNOW?

23 MR. ROSE: HE READ IT.

24 THE COURT: I KNOW.

25 MS. ROTELLA: ALL OF THE FACTS?

1 THE WITNESS: MY ASSUMPTION IS KNOWING  
2 HOW --

3 THE COURT: THERE IS NOTHING IN THIS CASE  
4 THAT CONTAINS ALL OF THE FACTS.

5 MR. ROSE: I AGREE.

6 THE COURT: BUT I WILL NOTE THAT THE  
7 PRESENTENCE INVESTIGATION REPORT IS A VERY COMPREHENSIVE  
8 AND FACTUAL CHRONOLOGY.

9 THE WITNESS: MS. MAXWELL'S REPORT  
10 TYPICALLY PROVIDED ME WITH VERY -- WHAT I UNDERSTAND TO  
11 BE A VERY THOROUGH, VERY CAREFULLY CHRONICLE DESCRIPTION  
12 OF THE FACTS OF THE CASE.

13 BY MR. ROSE:

14 Q. DO YOU THINK YOU HAVE ENOUGH INFORMATION ABOUT  
15 THE FACTS OF THIS CASE TO OFFER YOUR EXPERT OPINION  
16 TODAY?

17 A. I DO.

18 MR. ROSE: THANK YOU.

19 MS. ROTELLA: NOTHING ELSE. THANK YOU.

20 THE COURT: YOU MAY STEP DOWN, THANK YOU.

21 MR. ROSE MAY WANT YOU TO STAY FOR A  
22 WHILE, I THINK.

23 MR. ROSE: YES.

24 THE COURT: SWITCH THE CHAIRS.

25 MS. ROTELLA.

1 MS. ROTELLA: THE GOVERNMENT WOULD ASK  
2 DR. CHANNELL TO TAKE THE STAND.

3 (GOVERNMENT WITNESS, DR. SHAWN CHANNELL,  
4 IS SWORN.)

5 THE WITNESS: SHAWN, S-H-A-W-N, CHANNELL,  
6 C-H-A-N-N-E-L-L.

7 MS. ROTELLA: MAY I PROCEED, YOUR HONOR?

8 THE COURT: YES.

9 DIRECT EXAMINATION

10 BY MS. ROTELLA:

11 Q. DR. CHANNELL, BY WHOM ARE YOU EMPLOYED?

12 A. I AM EMPLOYED BY THE DEPARTMENT OF JUSTICE  
13 FEDERAL BUREAU OF PRISONS AT THE FEDERAL MEDICAL CENTER  
14 IN DEVENS, MASSACHUSETTS.

15 Q. AND WHAT IS YOUR POSITION WITH THE BUREAU OF  
16 PRISONS?

17 A. A FORENSIC PSYCHOLOGIST.

18 Q. HOW LONG HAVE YOU BEEN EMPLOYED BY THE BUREAU OF  
19 PRISONS?

20 A. IT WILL BE 20 YEARS IN SEPTEMBER.

21 Q. AND HAS IT ALWAYS BEEN YOUR SERVING IN THE ROLE  
22 AS A FORENSIC PSYCHOLOGIST?

23 A. NOT ALWAYS. FOR THE FIRST -- WELL, I BEGAN AS  
24 AN INTERN AT THE FEDERAL MEDICAL CENTER IN ROCHESTER,  
25 MINNESOTA. AND THEN I WORKED FOR ABOUT FIVE YEARS AS



1 STAFF PSYCHOLOGIST. BUT OTHER THAN THAT, IT HAS ALWAYS  
2 BEEN FORENSIC PSYCHOLOGIST.

3 Q. CAN YOU TELL US WHAT THE DEVENS FACILITY IS  
4 GEARED TOWARDS?

5 A. WE ARE A FEDERAL MEDICAL CENTER. IT'S AN  
6 ADMINISTRATIVE FACILITY. WE HAVE A MEDICAL UNIT WHERE  
7 WE TREAT SERIOUS MEDICAL PROBLEMS, CHRONIC MEDICAL  
8 PROBLEMS. WE HAVE A PSYCHIATRIC HOSPITAL WHERE WE TREAT  
9 SERIOUS MENTAL ILLNESS, A WIDE VARIETY OF MENTAL HEALTH  
10 ISSUES. WE HAVE A SEX OFFENDER TREATMENT PROGRAM, SEX  
11 OFFENDER MANAGEMENT PROGRAM. AND WE ALSO HAVE A SMALL  
12 CAMP THAT IS ATTACHED TO THE INSTITUTION FOR MINIMUM  
13 SECURITY INMATES.

14 Q. OKAY. WOULD YOU -- SO THE RECORD IS CLEAR,  
15 WOULD YOU GIVE THE COURT AN INDICATION OF YOUR  
16 BACKGROUND, YOUR EDUCATIONAL BACKGROUND?

17 A. SURE. I GOT MY BACHELOR'S DEGREE IN PSYCHOLOGY  
18 FROM WEST VIRGINIA UNIVERSITY, MY MASTERS AND DOCTERATE  
19 ARE BOTH FROM MICHIGAN. ACTUALLY MY UNDERGRAD WAS FROM  
20 WEST VIRGINIA AND MY GRADUATE WAS AT MICHIGAN. I HAVE A  
21 PH.D. IN CLINICAL PSYCHOLOGY; I AM BOARD CERTIFIED BY  
22 THE AMERICAN BOARD OF PROFESSIONAL PSYCHOLOGY AS A  
23 FORENSIC PSYCHOLOGIST AND A DIPLOMATE OF THE AMERICAN  
24 ACADEMY OF FORENSIC PSYCHOLOGY.

25 Q. HAVE YOU TESTIFIED AS AN EXPERT?

1 A. YES.

2 Q. BEFORE TODAY?

3 A. YES.

4 Q. HOW MANY TIMES, APPROXIMATELY?

5 A. AROUND 90 TIMES.

6 Q. HAVE YOU -- EACH TIME THAT YOU HAVE TESTIFIED,  
7 HAVE YOU BEEN CERTIFIED AS AN EXPERT IN FORENSIC  
8 PSYCHOLOGY?

9 A. YES.

10 Q. YOUR ROLE IN THIS CASE, YOU WERE ACTUALLY  
11 REFERRED BY THE COURT, IS THAT CORRECT?

12 A. YES, IT WAS A COURT-ORDERED EVALUATION.

13 Q. YOU WERE NOT RETAINED BY THE GOVERNMENT?

14 A. NO.

15 Q. AND WHEN YOU SAY COURT-ORDERED EVALUATION,  
16 EXPLAIN WHAT THAT PROCESS IS.

17 A. WELL, THE COURT ISSUED AN ORDER WITH SEVERAL  
18 FACTORS THAT THEY WANTED ADDRESSED. THOSE WERE WHETHER  
19 OR NOT MR. SHORE HAD A MENTAL DISEASE THAT WOULD REQUIRE  
20 TREATMENT IN A SUITABLE FACILITY, WHETHER ANY SENTENCING  
21 ALTERNATIVES THAT WOULD ASSIST HIM AND A RECOMMENDATION  
22 AS TO HOW HIS MENTAL CONDITION MIGHT EFFECT HIS  
23 SENTENCE.

24 Q. SO ALTHOUGH I MAY BE THE PERSON WHO IS  
25 QUESTIONING YOU HERE ON DIRECT, YOU ARE NOT CONSIDERED

1 TO BE MY GOVERNMENT WITNESS, CORRECT?

2 MR. ROSE: OBJECTION.

3 THE COURT: IT'S SUPERFLUOUS ANYWAY.

4 BY MS. ROTELLA:

5 Q. AND I SAY THAT, DR. CHANNELL, BECAUSE I HAD  
6 ASKED IF YOU WOULD BE COMFORTABLE SITTING AT THE TABLE  
7 WITH ME WHILE DR. ATKINS WAS TESTIFYING SO THAT I MAY  
8 CONVERSE WITH YOU, AND YOU ACTUALLY TOLD ME YOU WERE  
9 UNCOMFORTABLE WITH THAT, IS THAT CORRECT?

10 A. YES.

11 Q. WHAT IS THE REASON FOR THAT?

12 A. I WAS NOT RETAINED BY YOU. I AM HERE TO PROVIDE  
13 INFORMATION TO THE COURT. I DON'T WANT TO APPEAR TO  
14 HAVE A BIAS TOWARDS THE PROSECUTION OR THE DEFENSE.

15 Q. AND IT'S NOT THAT YOU JUST DON'T WANT TO APPEAR  
16 TO TESTIFY, YOU DON'T HAVE TO, CORRECT?

17 A. NO, I DON'T.

18 Q. LET'S TALK ABOUT, THEN, YOU DID EVALUATE MR.  
19 SHORE IN THIS CASE, AND YOU ALSO AUTHORED A FORENSIC  
20 REPORT, IS THAT CORRECT?

21 A. YES, I DID.

22 Q. AND THE COURT HAS A COPY, AS DO BOTH OF THE  
23 ATTORNEYS IN THIS CASE.

24 WOULD YOU INDICATE FOR THE RECORD WHEN IS  
25 IT THAT MR. SHORE WAS EVALUATED AND SEEN AT YOUR MEDICAL

1 FACILITY?

2 A. HE ARRIVED ON DECEMBER 21ST OF LAST YEAR, 2017.  
3 AND HE -- WELL, THE LAST TIME WE DID ANYTHING WITH HIM  
4 WAS ON FEBRUARY 26, 2018. THAT PROBABLY WAS NOT THE  
5 DATE THAT HE LEFT, BUT THAT WAS THE LAST TIME I HAD ANY  
6 CONTACT WITH HIM.

7 Q. BUT HE RESIDED AT THE FACILITY AS PART OF THE  
8 EVALUATION?

9 A. YES, HE WAS THERE THE ENTIRE TIME.

10 Q. SO FOR MORE THAN TWO MONTHS YOU AND YOUR STAFF  
11 HAD AN OPPORTUNITY TO OBSERVE HIM, TO TEST HIM, TO TREAT  
12 HIM, IF NECESSARY, IS THAT CORRECT?

13 A. THAT'S RIGHT, YES.

14 Q. EXPLAIN THEN WHEN HE FIRST CAME TO THE FACILITY  
15 HE WAS ACTUALLY IN A SEMI-LOCKED INPATIENT UNIT?

16 A. WHEN HE FIRST CAME, HE WAS ON A LOCKED UNIT. I  
17 BELIEVE THAT WAS BECAUSE HE NEEDED T.B. CLEARANCE, A  
18 T.B. TEST TO BE CLEARED. AND THEN HE WAS TRANSFERRED TO  
19 AN OPEN UNIT. WE HAD SOME PROBLEMS ON THE OPEN UNIT,  
20 THEN WE MOVED HIM INTO A SEMI-LOCKED UNIT.

21 Q. AND THEN HOW DID HE END UP?

22 A. EVENTUALLY WE MOVED HIM BACK TO THE OPEN UNIT.

23 Q. THAT'S BECAUSE HE WAS ABLE TO ADJUST?

24 A. YEAH. I MEAN, HE HAD PROBLEMS ON THE OPEN UNIT,  
25 BUT HE WAS ABLE TO FUNCTION.

1 Q. ALL RIGHT. SO IN TERMS OF HIS FUNCTIONING,  
2 EXPLAIN TO THE COURT, YOU ACTUALLY DID SOME TESTING OF  
3 MR. SHORE AND DIAGNOSED HIM WITH A NUMBER OF CONDITIONS,  
4 CORRECT?

5 A. YES. WELL, I INTERVIEWED MR. SHORE ON SEVERAL  
6 OCCASIONS, AND WE DID THREE TESTS WITH HIM. WE DID AN  
7 INTELLIGENCE TEST, THE WECHSLER ABBREVIATED SCALE OF  
8 INTELLIGENCE, WHICH SHOWS THAT HE HAD AVERAGE  
9 INTELLIGENCE RIGHT AROUND 100, I THINK IT WAS 103. AND  
10 THEN WE ALSO DID A PERSONALITY ASSESSMENT, THE MINNESOTA  
11 MULTIPHASIC PERSONALITY INVENTORY, THE MMPI-2. AND THAT  
12 INDICATED A LOT OF CHARACTERISTICS THAT ARE CONSISTENT  
13 WITH AUTISM SPECTRUM DISORDER. THAT WOULD BE THINGS  
14 LIKE FEELING SOCIALLY ALIENATED, HAVING A LOT OF SELF  
15 DOUBT, POOR SOCIAL SKILLS, AS WAS TALKED ABOUT WITH  
16 DR. ATKINS'S TESTIMONY, A LACK OF REMORSE, LACK OF  
17 EMPATHY, DIFFICULTY LEARNING FROM ONE'S BEHAVIOR, OR IF  
18 THEY WERE CAPABLE OF LEARNING FROM THEIR BEHAVIOR GOING  
19 AHEAD AND ENGAGING IN THE BEHAVIOR AGAIN, THAT TYPE OF  
20 PATTERN OF BEHAVIOR. THERE WAS ALSO A LOT OF  
21 CHARACTERISTICS CONSISTENT WITH MAJOR DEPRESSIVE  
22 DISORDER THAT CAME THROUGH ON THE MMPI-2. AND SO THAT  
23 LED TO MY DIAGNOSIS OF MAJOR DEPRESSION. A GOOD DEAL OF  
24 DEPRESSION, HOPELESSNESS, ANXIETY, THAT TYPE OF  
25 INFORMATION.

1                   AND THEN THE THIRD TEST THAT WE  
2           ADMINISTERED TO MR. SHORE WAS SOMETHING CALLED THE  
3           MULTIPHASIC SEX INVENTORY.   AND THAT BASICALLY ASSISTS  
4           US IN EXAMINING THE INTERESTS THAT A PERSON HAS SEXUALLY  
5           AND MAKING TREATMENT RECOMMENDATIONS.

6                   AND THEN THE FINAL INSTRUMENT WHICH IS  
7           NOT -- YOU DON'T ADMINISTER IT TO THE INDIVIDUAL, BUT  
8           IT'S BASED ON THEIR COLLATERAL HISTORY, IS AN INSTRUMENT  
9           CALLED THE STATIC-99, WHICH IS AN ACTUARY INSTRUMENT  
10          THAT IS USED TO ASSIST IN MAKING RECOMMENDATIONS ON  
11          SEXUAL RECIDIVISM.

12       Q.           BUT BASED ON ALL OF THAT TESTING, WHICH WE WILL  
13       GET INTO IN A LITTLE MORE DETAIL, YOU INDICATED THAT YOU  
14       DIAGNOSED HIM WITH MAJOR DEPRESSIVE DISORDER?

15       A.           YES.

16       Q.           YOU DID FIND HIM TO BE ON THE AUTISM SPECTRUM  
17       DISORDER, CORRECT?

18       A.           YES.

19       Q.           YOU AGREE WITH -- WHERE YOUR DIAGNOSIS PUT HIM  
20       IN AT LEVEL 1?

21       A.           THAT'S RIGHT, THERE ARE TWO LEVELS.   BASICALLY  
22       THEY INDICATE LEVEL OF IMPAIRMENT.   LEVEL 1 IS THE  
23       LEAST, THE LOWER LEVEL OF IMPAIRMENT; LEVEL TWO IS FAR  
24       MORE SIGNIFICANT IMPAIRMENT AND FUNCTIONING.

25       Q.           BUT HE DIDN'T HAVE LEVEL TWO, HE IS WHAT YOU

1        WOULD CLASSIFY AS HIGH FUNCTIONING, CORRECT?

2                    MR. ROSE:  OBJECTION.

3                    THE COURT:  OVERRULED.

4                    THE WITNESS:  YES, I WOULD CHARACTERIZE  
5        HIM AS VERY HIGH FUNCTIONING ON THE AUTISM SPECTRUM.

6        BY MS. ROTELLSA:

7        Q.            AND THEN SIGNIFICANT TO THIS CASE, YOU ALSO  
8        FOUND HIM TO HAVE PEDOPHILIC DISORDER, IS THAT RIGHT?

9        A.            YES, THAT'S CORRECT.

10       Q.            AND SO EXPLAIN TO THE COURT WHAT YOU MEAN BY  
11       PEDOPHILIC DISORDER?

12       A.            PEDOPHILIC DISORDER IS A PEDOPHILIA THAT IS  
13       CHARACTERIZED BY SEXUAL ATTRACTION TO PREPUBESCENT  
14       CHILDREN THAT SIGNIFICANTLY IMPAIRS FUNCTIONING OR  
15       RESULTS IN SIGNIFICANT CONSEQUENCES OR DIFFICULTIES.

16                    AND IN MR. SHORE'S CASE, HE DENIES SEXUAL  
17       ATTRACTION TO CHILDREN BOTH DURING MY INTERVIEWS WITH  
18       HIM AND DURING THE ADMINISTRATION OF THE MSI-II, BUT THE  
19       EVIDENCE THAT WAS AVAILABLE AND HIS HISTORY  
20       CONTRAINDICATE THAT DENIAL, WHICH IS NOT UNCOMMON.  HE  
21       HAS, AS INDICATED EARLIER, THERE WERE A LARGE NUMBER OF  
22       PORNOGRAPHIC IMAGES THAT WERE FOUND TO BE IN HIS  
23       POSSESSION THAT WERE OF PREPUBESCENT CHILDREN.  AND  
24       WHILE HE DID HAVE MANY CONVERSATIONS WITH WHAT WE WOULD  
25       CALL PUBESCENT CHILDREN, HE ALSO INDICATED ATTRACTION TO

1       PREPUBESCENT CHILDREN.   WHERE YOU DRAW THE LINE AT  
2       PUBERTY CAN VARY.   IT'S PRIMARILY BASED ON DEVELOPMENT  
3       OF SECONDARY SEXUAL CHARACTERISTICS.   BUT I KNOW FOR A  
4       FACT ONE INDIVIDUAL WHO IS 12 YEARS OLD WHO HE CHATTED  
5       WITH, THAT HE WAS AWARE SHE WAS 12 YEARS OLD AND HE  
6       EXPRESSED EXPLICITLY BEING SEXUALLY ATTRACTED TO HER AND  
7       ALSO ASKED HER TO PROVIDE HIM INFORMATION ABOUT WHETHER  
8       OR NOT SHE HAD SEXUAL INTERACTIONS WITH HER  
9       NINE-YEAR-OLD SISTER AND THAT HE WOULD LIKE TO HAVE  
10      SEXUAL INTERACTIONS WITH HER NINE-YEAR-OLD SISTER.

11                       SO I BELIEVE, IN MY PROFESSIONAL OPINION,  
12      THAT THERE IS OVERWHELMING COLLATERAL EVIDENCE TO  
13      INDICATE THAT HE HAS A SEXUAL PREFERENCE FOR  
14      PREPUBESCENT CHILDREN.   I DON'T KNOW HOW ONE COULD  
15      OBJECTIVELY STATE THAT'S NOT PRESENT, GIVEN HIS -- GIVEN  
16      THE EVIDENCE THAT HE HAS PLED GUILTY TO.

17      Q.           AND SO I WANT TO MAKE SURE I UNDERSTAND YOU  
18      CORRECTLY.   YOU SAID OVERWHELMING EVIDENCE THAT HE HAS  
19      SEXUAL INTEREST IN PREPUBESCENT CHILDREN, CORRECT?

20      A.           YES.   OFTEN THE ONLY EVIDENCE THAT WE HAVE ARE  
21      THE PICTURES OR VIDEOS.   I'VE EVALUATED MANY INDIVIDUALS  
22      FOR CHILD PORNOGRAPHY.   I MEAN, I WORK IN A FEDERAL  
23      INSTITUTION.   WE HAVE SEX OFFENDER TREATMENT PROGRAMS.  
24      WE GET A LOT OF CHILD PORNOGRAPHY CASES OR INTERSTATE  
25      COMMUNICATIONS RELATED TO SEXUAL BEHAVIOR.   AND MOST OF



1       THOSE CASES DON'T REPORT HAVING A PREFERENCE TO  
2       CHILDREN, BUT WHAT WE HAVE ARE IMAGES THAT INDICATE THAT  
3       THEY DO.

4               BUT IN THIS CASE THERE ARE MORE THAN JUST  
5       IMAGES.  THERE ARE THE CHATS AND THERE ARE -- THERE IS  
6       ALSO AN OFFENSE WITH HIS SISTER, AND A CONTACT OFFENSE  
7       WITH A PUBESCENT INDIVIDUAL.  SO THERE ARE -- THERE IS A  
8       LOT OF EVIDENCE WHICH SUGGESTS THAT HE HAS AN ATTRACTION  
9       TO PREPUBESCENT CHILDREN.

10      Q.        OKAY.  PART OF WHAT YOU SPOKE ABOUT IN YOUR  
11      REPORT, AND I WANT TO MAKE SURE THAT WE ARE CLEAR HERE  
12      AT THE HEARING, AUTISM SPECTRUM DISORDER DOES NOT IN ANY  
13      WAY LEAD TO PEDOPHILIA, IS THAT CORRECT?

14      A.        ABSOLUTELY.  IT WOULD BE A DISSERVICE TO PEOPLE  
15      WITH AUTISM SPECTRUM DISORDER TO SUGGEST OTHERWISE.  THE  
16      VAST MAJORITY OF INDIVIDUALS WITH AUTISM SPECTRUM  
17      DISORDER HAVE APPROPRIATE SEXUAL ATTRACTION TO  
18      AGE-APPROPRIATE INDIVIDUALS.  THEY MAY GRAVITATE TOWARDS  
19      PEOPLE WHO ALSO HAVE SOCIAL DEFICITS AND THOSE TYPES OF  
20      THINGS.  BUT TO SUGGEST THAT THEY ARE NATURALLY INCLINED  
21      TO BE SEXUALLY ATTRACTED TO CHILDREN IS NOT CORRECT.

22      Q.        ONE OF THE THINGS THAT AUTISM SPECTRUM DISORDER  
23      DOES HAVE, WHICH YOU TALKED ABOUT AS PART OF THE MMPI  
24      TEST IS THAT -- AND WHAT MR. SHORE DEMONSTRATES IS A  
25      LACK OF REMORSE AND A LACK OF EMPATHY, IS THAT CORRECT?

1       A.           YES.

2       Q.           IN YOUR OPINION, YOU FELT THAT LED TO A  
3       SIGNIFICANTLY INCREASED RISK OF RECIDIVISM, IS THAT  
4       CORRECT?

5                   MR. ROSE:  OBJECTION TO THE TERM  
6       "SIGNIFICANT."

7                   THE COURT:  REPHRASE THE QUESTION,  
8       PLEASE.

9       BY MS. ROTELLA:

10      Q.           SIR, WHY DON'T YOU EXPLAIN TO THE COURT HOW YOU  
11      THINK THAT AFFECTS HIS RISK OF RECIDIVISM?

12                   THE COURT:  WHAT AFFECTS?

13                   MS. ROTELLA:  HIS LACK OF EMPATHY, HIS  
14      LACK OF REMORSE.

15                   THE WITNESS:  THEY DO INCREASE HIS RISK  
16      OF RECIDIVISM.  I MEAN, LACK OF EMPATHY IS LACK OF  
17      EMPATHY.  THE IDEA OF -- I WOULD DISAGREE WITH DR.  
18      ATKINS' ARGUMENT THAT PEOPLE WITH ANTISOCIAL PERSONALITY  
19      DISORDER UNDERSTAND EMPATHY, AND THEY JUST DON'T HAVE  
20      IT.  I MEAN, I THINK THAT'S TRUE OF EVERYBODY.  EVEN  
21      PEOPLE WITH AUTISM SPECTRUM DISORDER, THEY DON'T FEEL  
22      IT.  AND EVEN THOUGH THEIR INTENTION MAY NOT NECESSARILY  
23      BE MALICIOUS, A LACK OF EMPATHY PREDISPOSES SOMEONE TO  
24      ENGAGE IN BEHAVIOR TOWARDS OTHERS WHICH COULD BE HARMFUL  
25      TO THEM, AND THEREFORE INCREASES RISK.

1 BY MS. ROTELLA:

2 Q. DID YOU FIND THAT MR. SHORE VOICED TO YOU THE  
3 FACT THAT HE FELT BADLY ABOUT THE CRIMES THAT WERE  
4 COMMITTED HERE?

5 A. ABSOLUTELY, YES.

6 Q. AND WHY IS IT THAT IN HIS -- WHAT HE VOICED TO  
7 YOU, YOU FOUND HE FELT BADLY FOR WHAT REASON?

8 A. WELL, HE NEVER -- I MEAN, HE PRIMARILY REGRETTED  
9 BEING IN THE SITUATION THAT HE IS IN. HE IS TERRIFIED  
10 OF GOING TO PRISON FOR ANY LENGTH OF TIME,  
11 UNDERSTANDABLY SO. BUT HE DID NOT INDICATE, YOU KNOW,  
12 IN HIS STATEMENTS TO ME AND THINGS THAT HE WROTE TO ME,  
13 HE PRIMARILY INDICATED THAT HE DID NOT REALLY VIEW WHAT  
14 HE DID TO THESE GIRLS AS HARMFUL, AND THAT HE DIDN'T --  
15 HE JUST -- I CAN'T REMEMBER THE EXACT PHRASE, BUT IT WAS  
16 ALONG THE LINES THAT HE KIND OF FELT LIKE IT WAS, YOU  
17 KNOW -- THEY WERE JUST PLAYING ALONG OR THAT THEY WANTED  
18 IT. THAT WAS ANOTHER STATEMENT, THAT THEY WERE  
19 INTERESTED AND THEY WANTED TO DO WHAT HAPPENED.

20 Q. DID HE VOICE TO YOU THE FACT THAT HE REGRETTED  
21 WHAT HAD HAPPENED BECAUSE HE HAD BEEN CAUGHT?

22 A. YES, ABSOLUTELY.

23 Q. WHEN WE WERE SPEAKING ABOUT THE FACTS OF THIS  
24 CASE AND IN TALKING ABOUT YOUR REPORT, YOU HAVE  
25 CLASSIFIED MR. SHORE AS A PREDATOR, ISN'T THAT CORRECT?

1       A.           HIS BEHAVIOR WAS VERY PREDATORY, YES, I BELIEVE  
2       THAT'S TRUE.

3       Q.           CAN YOU EXPLAIN TO THE COURT WHY YOU SAY THAT?

4       A.           I BELIEVE THAT THERE WAS A GREAT DEAL OF  
5       MANIPULATION PRESENT IN HIS BEHAVIOR.  THERE WERE A FEW  
6       CHARACTERISTICS THAT STOOD OUT IN PARTICULAR TO ME.  ONE  
7       WAS AN INDIVIDUAL WHO HE BELIEVED TO BE OLDER, SHE HAD  
8       TOLD HIM SHE WAS OLDER AND HE WAS CHATTING WITH HER, I  
9       DON'T RECALL HER NAME.  BUT EVENTUALLY HER MOTHER  
10      CONTACTED HIM, I BELIEVE OVER FACEBOOK MESSENGER.  AND  
11      SAID SHE IS 12-YEARS OLD AND SHE HAS PROBLEMS, PLEASE  
12      STOP TALKING TO HER.  AND HE PROVIDED A DESCRIPTION TO  
13      HER WHICH WAS VERY SELF-SERVING AS THOUGH HE WERE  
14      LOOKING OUT FOR HER BEST INTEREST, AND HE DIDN'T KNOW,  
15      AND HE JUST WANTED THE BEST FOR HER.

16                   BUT THEN LATER THE SAME DAY HE RE-ENGAGED  
17      IN TALKING TO HER ABOUT SEXUAL THINGS AFTER HE KNEW SHE  
18      WAS 12, AND TOLD HER THAT IT TURNED HIM ON THAT SHE WAS  
19      12, AND THAT HE -- THAT WAS THE INDIVIDUAL HE TALKED  
20      ABOUT BEING SEXUALLY ATTRACTED TO HER NINE-YEAR OLD  
21      SISTER.

22      Q.           AND ACTUALLY --

23      A.           THAT LEVEL -- THAT TYPE OF STATEMENT TO THE  
24      PARENT AND THEN GOING ON AND CARRYING ON A CONVERSATION  
25      WITH THAT INDIVIDUAL AFTERWARDS, IT'S MORE ABOUT THE

1       STATEMENT TO THE MOTHER THAN EVEN THE BEHAVIOR TOWARDS  
2       THE GIRL IS VERY MANIPULATIVE AND PREDATORY.

3                   THERE WAS ANOTHER CLEAR STATEMENT THAT HE  
4       MADE DURING ONE OF THE CHARTS THAT WAS REFERENCED  
5       EARLIER, SOMETHING ALONG THE LINES, I DON'T LIKE TO LIE  
6       BUT SOMETIMES I HAVE TO DO IT TO GET WHAT I WANT.  
7       THAT'S A PREDATORY TYPE OF STATEMENT.

8                   THERE WERE SITUATIONS THAT HAVE ALREADY  
9       BEEN REFERENCED WHERE HE PORTRAYED HIMSELF AS A CHILD, A  
10      YOUNG GIRL. AND IN ORDER TO INITIATE CONTACT -- AND HE  
11      BASICALLY TOLD ME HE WOULD SEND OUT LOTS OF DIFFERENT  
12      CONTACTS TO MIMIC DIFFERENT GIRLS. AND MOST OF THEM  
13      WOULD NOT RESPOND BUT SOME WOULD. AND HE WOULD START  
14      TALKING TO THEM. AND THEN EVENTUALLY HE WOULD SAY  
15      SOMETHING LIKE, YOU KNOW, I HAVE A FRIEND OR I HAVE A  
16      BROTHER WHO IS OLDER, HE WOULD LIKE TO TALK TO YOU,  
17      WHATEVER.

18                  THAT'S THE TYPE OF BEHAVIOR I HAVE SEEN  
19      MANY TIMES IN OTHER SEX OFFENDERS, A WAY TO BASICALLY  
20      CREATE A SITUATION WHERE THE OTHER INDIVIDUAL FEELS  
21      COMFORTABLE, AND THERE IS SOME RAPPORT AND TRUST. AND  
22      THEN THAT ALLOWS THEM TO BE -- LATER PROVIDE THE THINGS  
23      THAT THE PERSON WANTS.

24      Q.        SO YOU WOULD CLASSIFY THAT AS SEX OFFENDER  
25      BEHAVIOR?

1 A. YES.

2 Q. YES. AND NOT -- IN FACT, IS THAT IN ANY WAY  
3 CLASSICAL OF THOSE WHO HAVE AUTISM SPECTRUM DISORDER,  
4 THAT'S ANOTHER --

5 MR. ROSE: OBJECTION.

6 THE COURT: FINISH THE QUESTION.

7 BY MS. ROTELLA:

8 Q. THAT LEVEL OF WHAT YOU HAVE DESCRIBED AS  
9 MANIPULATION?

10 MR. ROSE: OBJECTION.

11 THE COURT: OVERRULED.

12 THE WITNESS: THE BIGGEST THING THAT  
13 STANDS OUT THERE THAT IS NOT CONSISTENT WITH MOST  
14 INDIVIDUALS WITH AUTISM SPECTRUM DISORDER IS THE  
15 IMPERSONATION, BECAUSE THAT REQUIRES AN INDIVIDUAL TO BE  
16 ABLE TO UNDERSTAND HOW ANOTHER PERSON WOULD RESPOND IN A  
17 PARTICULAR SITUATION. AND THEN TO ENGAGE IN THAT  
18 PRETEND BEHAVIOR, THAT'S DIFFICULT FOR SOMEONE WITH  
19 AUTISM SPECTRUM DISORDER TO DO, BECAUSE OF THEIR  
20 DEFICITS WITH REGARD TO PICKING UP ON QUEUES AND SOCIAL  
21 QUEUES.

22 SO THAT SUGGESTS TO ME NOT THAT HE DOES  
23 NOT HAVE AUTISM SPECTRUM DISORDER, BUT HE IS, AS I SAID,  
24 VERY HIGH FUNCTIONING, AND HE DOES HAVE MANY  
25 CHARACTERISTIC OF AUTISM SPECTRUM DISORDER. BUT ALL

1 MENTAL HEALTH CONDITIONS OCCUR ON A SPECTRUM FROM MILD  
2 TO SEVERE. AND YOU CAN MEET CERTAIN CRITERIA AND NOT --  
3 YOU DON'T HAVE TO HAVE ALL OF THE FACTORS THAT ARE  
4 DEFINED UNDER THE CONDITION. I DON'T BELIEVE THAT HE  
5 EXHIBITS THE DEGREE OF DEFICITS WITH REGARD TO SOCIAL  
6 INTERACTION, WHICH IS SEEN IN MANY INDIVIDUALS WITH  
7 AUTISM SPECTRUM DISORDER.

8 Q. SO ABOVE AND BEYOND THIS IMPERSONATION, HOWEVER,  
9 I WAS MORE SPEAKING ABOUT THE MANIPULATION THAT HE  
10 EXHIBITED IN MUCH OF HIS CRIMES HERE. IS THAT REALLY  
11 TYPICAL OF SOMEBODY WHO HAS AUTISM SPECTRUM DISORDER?

12 A. WELL, AGAIN, NO, IT'S DIFFICULT -- I MEAN, TO  
13 MANIPULATE SOMEONE YOU HAVE TO BE ABLE TO INFER WHAT  
14 THEY WANT TO HEAR AND WHAT WILL, FOR THE LACK OF A  
15 BETTER WORD, PLACATE THEM. AND THAT WOULD BE VERY  
16 DIFFICULT. IT'S DIFFICULT FOR SOMEONE WITH AUTISM  
17 SPECTRUM DISORDER TO EVEN INTERACT APPROPRIATELY WITH  
18 SOMEONE ELSE AS THEMSELVES LET ALONE TO PRESENT A  
19 CHARACTERIZATION OF THEMSELVES WHICH IS DISINGENUOUS.

20 Q. IN FACT, HIS LEVEL OF MANIPULATION WAS FACTORED  
21 INTO -- TO WHAT EXTENT IN YOUR OPINION IN YOUR REPORT?

22 MR. ROSE: OBJECTION, ASKED AND ANSWERED.

23 THE COURT: SUSTAINED.

24 BY MS. ROTELLA:

25 Q. DID HIS LEVEL OF MANIPULATION FACTOR INTO YOUR

1        FACTOR HERE?

2                    MR. ROSE:  OBJECTION.

3                    THE COURT:  OVERRULED.

4                    THE WITNESS:  YES.  AS I SAID EARLIER, IT  
5        FACTORS INTO THE DEGREE OF AWARENESS THAT HE HAD OF THE  
6        WRONGFULNESS OF HIS BEHAVIOR AND THE DEGREE OF  
7        APPRECIATION THAT HE HAD FOR THE TYPE OF BEHAVIOR THAT  
8        HE WAS ENGAGING IN, THE APPRECIATION OF THE WRONGFULNESS  
9        OF THE BEHAVIOR.  AND THAT GOES INTO THE FACT THAT THERE  
10       ARE CHARACTERISTICS OF HIS PRESENTATION WHICH ARE NOT  
11       TYPICAL WITH GARDEN VARIETY TEXTBOOK AUTISM SPECTRUM  
12       DISORDER, AND THAT'S TRUE OF ANY INDIVIDUAL.  WE  
13       CHARACTERIZE PEOPLE INTO -- WE PUT THEM IN BOXES TO  
14       DIAGNOSE THEM AND TO HELP US TREAT THEM AND ANALYZE AND  
15       FIGURE OUT WHAT IS WRONG WITH THEM.  BUT EVERY PERSON  
16       HAS CHARACTERISTICS WHICH DIFFERENTIATE THEM FROM OTHER  
17       INDIVIDUALS, EVEN WITH THE SAME DISORDER.

18                    AND THOSE ARE THE FACTORS THAT I THINK  
19       ARE MOST IMPORTANT IN THIS CASE ARE THE THINGS THAT  
20       DIFFERENTIATE MR. SHORE FROM THE DSM DEFINITION OF  
21       AUTISM SPECTRUM DISORDER, BECAUSE HE HAS DONE THINGS AND  
22       ENGAGED IN BEHAVIORS WHICH WOULD ARGUE AGAINST SOME OF  
23       THOSE CONCEPTS BEING AS PREVALENT IN HIS PRESENTATION AS  
24       WOULD BE THE CASE OF JUST A GENERIC INDIVIDUAL WITH  
25       AUTISM SPECTRUM DISORDER.



1 Q. SO THAT WE ARE CLEAR AS TO WHAT YOU ARE  
2 REFERRING TO, WHAT ARE THOSE CHARACTERISTICS THAT  
3 DIFFERENTIATE MR. SHORE?

4 A. AGAIN, I BELIEVE THAT HE IS BETTER CAPABLE OF  
5 UNDERSTANDING OTHER INDIVIDUAL'S DESIRES AND WHAT THEY  
6 WANT OR WAYS TO MANIPULATE THEM THAN MANY PEOPLE WITH  
7 AUTISM SPECTRUM DISORDER. THERE ARE TWO  
8 CHARACTERIZATIONS THAT I BELIEVE HE PRESENTS THE MOST,  
9 AND ONE IS THE COLLECTING AND CATEGORIZATION AND THIS  
10 FIXATION ON THINGS BEING SET IN A KIND OF ROUTINE, HE  
11 DOES NOT DEAL WELL AT ALL WITH CHANGE. AND THAT'S  
12 CERTAINLY A CHARACTERISTIC OF AUTISM SPECTRUM DISORDER.  
13 AND HE ALSO HAS DEFICITS IN SOCIAL EMOTIONAL RECIPROCITY  
14 IN THAT HE OVER-INTERPRETS THE DEGREE OF SIGNIFICANCE OF  
15 A RELATIONSHIP. SO HE JUST STARTS TALKING WITH SOMEONE  
16 ON LINE AND WITHIN THE FIRST FEW DAYS THEY ARE IN LOVE,  
17 FOR EXAMPLE. THOSE ARE THE TWO AREAS THAT HE HAS THE  
18 MOST PROBLEMS IN.

19 I DON'T THINK HE HAS A SIGNIFICANT  
20 DEFICIT IN NON-VERBAL COMMUNICATION, AS MANY INDIVIDUALS  
21 WITH AUTISM SPECTRUM DISORDER. AND I DON'T THINK THAT  
22 HE HAS THE DEFICITS IN MAINTAINING RELATIONSHIPS THAT  
23 MANY INDIVIDUALS WITH AUTISM SPECTRUM DISORDER DO. HE  
24 IS ABLE TO MAINTAIN -- HE HAS MANY RELATIONSHIPS THAT HE  
25 HAS MAINTAINED SUCCESSFUL AND HE HAS ONLINE

1 COMMUNICATIONS HE MAINTAINS, THOSE TYPES OF  
2 RELATIONSHIPS PRETTY SIGNIFICANTLY.

3 Q. LET'S TALK FOR A MOMENT ABOUT DR. ATKINS'S  
4 TESTING AND HIS REPORT.

5 YOU REVIEWED THAT --

6 A. YES.

7 Q. -- AS PART OF YOUR OWN --

8 A. YES, I DID.

9 Q. -- INVESTIGATION?

10 AND EXPLAIN -- DR. ATKINS USED THIS MCMI  
11 TESTING, IS THAT CORRECT?

12 A. YES.

13 Q. AND EXPLAIN -- DO YOU AGREE WHETHER OR NOT THAT  
14 WAS THE PROPER TEST TO HAVE USED WITH THIS PARTICULAR  
15 DEFENDANT?

16 A. I DON'T BELIEVE THERE IS ANYTHING INAPPROPRIATE  
17 OR IMPROPER ABOUT USING IT. IT'S SIMILAR TO THE MMPI-2.  
18 I MEAN, NEITHER OF THE MMPI-2 NOR THE MCMI ARE GOING TO  
19 CAPTURE COMPLETELY ASPERGER DISORDER OR AUTISM SPECTRUM  
20 DISORDER. THEY ARE ALSO NOT GOING TO CAPTURE  
21 SIGNIFICANT SEXUAL PREOCCUPATION FOR PARAPHILIA. BUT  
22 FOR ISSUES OF GENERAL PERSONALITY AND PRESENTATION, I  
23 BELIEVE THEY ARE -- THEY ARE SIMILAR ENOUGH FOR A CASE  
24 LIKE THIS THAT BOTH ARE APPROPRIATE.

25 Q. DID YOU INDICATE TO ME BEFORE THAT THERE IS --

1       WHETHER OR NOT THERE IS VALID RESEARCH BEHIND THAT  
2       PARTICULAR TEST?

3       A.       THERE IS VALID RESEARCH BEHIND IT. IT TENDS TO  
4       BE USED PREDOMINANTLY FOR THE DIAGNOSIS OF WHAT WE WOULD  
5       CALL PERSONALITY DISORDERS AS OPPOSED TO PRIMARY MENTAL  
6       ILLNESSES, BUT I WOULD NOT SAY IT'S NOT VALID.

7       Q.       SO WHEN YOU SAY AS OPPOSED TO PRIMARY MENTAL  
8       ILLNESSES, IS THAT TYPICALLY THE TEST THAT IS USED FOR  
9       SOMEBODY TO DIAGNOSE AUTISM SPECTRUM DISORDER?

10      A.       WELL, NO, NEITHER. THE MMPI NOR THE MCMI ARE  
11      PRIMARILY USED TO DIAGNOSE AUTISM SPECTRUM DISORDER.

12      Q.       AND THEN THERE WAS ANOTHER TYPE WITH RESPECT TO  
13      BECK DEPRESSION INVENTORY?

14      A.       YES.

15      Q.       AND WHAT ARE YOUR COMMENTS ON THE USE OF THAT  
16      TEST?

17      A.       WELL, AGAIN, THERE IS NOTHING INAPPROPRIATE  
18      ABOUT USING THE BECK DEPRESSION INVENTORY. IT'S A VERY  
19      STRAIGHTFORWARD QUESTIONNAIRE OF DEPRESSIVE SYMPTOMS.  
20      IT'S COMPLETELY FACE VALID. AND WHAT I MEAN BY THAT IS  
21      IF AN INDIVIDUAL WANTS TO APPEAR PROFOUNDLY DEPRESSED,  
22      IT'S EXTREMELY EASY TO DO THAT. IF THEY ARE DEPRESSED  
23      AND WANT TO DENY IT, IT'S EXTREMELY EASY TO DO THAT.  
24      THERE IS NO VALIDITY INDICATORS ON THE BECK DEPRESSION  
25      INVENTORY.

1 I DON'T USE IT SIMPLY BECAUSE I WORK IN A  
2 FORENSIC CAPACITY. AND MANY OF THE INDIVIDUALS THAT I  
3 WORK WITH HAVE A SECONDARY GAIN SOMETIMES TO PRESENT AS  
4 MORE OR LESS IMPAIRED THAN THEY REALLY ARE. SO I TRY TO  
5 AVOID INSTRUMENTS THAT ARE FACE VALID AND THAT DON'T  
6 HAVE ANY TYPE OF VALIDITY INDICATORS TO HELP ME  
7 UNDERSTAND WHETHER OR NOT THEY ARE BEING HONEST WITH ME.

8 Q. SO YOUR ULTIMATE OPINION IN YOUR REPORT  
9 INDICATES THAT YOU DON'T BELIEVE THAT HE IS SUFFERING  
10 FROM A SIGNIFICANTLY IMPAIRED ABILITY, IS THAT CORRECT?

11 A. YES.

12 Q. DID YOU INDICATE ON PAGE 22 OF YOUR REPORT YOU  
13 DID THINK HE PRESENTS WITH SIGNIFICANT ISSUES OF SEXUAL  
14 DEVIANCE, IS THAT CORRECT?

15 A. THAT'S CORRECT, YES.

16 Q. AND THAT YOU BELIEVED HIM TO BE AT AN ELEVATED  
17 RISK OF ENGAGING IN BOTH CONTACT SEXUAL OFFENSES AND  
18 CHILD PORNOGRAPHY RELATED OFFENSES IF HE IS RELEASED?

19 A. YES.

20 Q. WOULD YOU CLASSIFY HIS BEHAVIOR AS PART OF THESE  
21 CRIMES AS MORE INDICATIVE OF STEREOTYPICAL CRIMINAL  
22 BEHAVIORS, SEX OFFENDER BEHAVIORS OR MORE ON THE AUTISM  
23 SPECTRUM DISORDER?

24 MR. ROSE: OBJECTION.

25 THE COURT: SUSTAINED.

1 BY MS. ROTELLA:

2 Q. HOW WOULD YOU CLASSIFY HIS BEHAVIORS IN THIS  
3 CASE, DOCTOR?

4 THE COURT: AS HAVING BEEN LEAD BY THE  
5 PRIOR QUESTION.

6 THE WITNESS: IT'S DIFFICULT TO SAY. I  
7 MEAN, NOTHING IS PURELY ONE THING OR THE OTHER. I MEAN,  
8 IN MANY WAYS I BELIEVE -- I GUESS THE WAY I WOULD  
9 CHARACTERIZE IT IS HE HAS TWO PARALLEL PROCESSES IN HIS  
10 LIFE; ONE IS AUTISM SPECTRUM DISORDER, ONE IS  
11 PEDOPHILIA. AND THEY RUN PARALLEL TO ONE ANOTHER; AT  
12 TIMES THEY INTERACT WITH ONE OTHER; AT TIMES THEY DON'T.  
13 I COULD NOT SAY THAT ONE IS THE EXCLUSIVE CAUSE OR THAT  
14 ONE IS NOT. THEY BOTH CONTRIBUTED TO THE OFFENSE.

15 BY MS. ROTELLA:

16 Q. BUT YOU HAVE INDICATED IN YOUR REPORT THAT YOU  
17 DON'T BELIEVE IT WAS SIGNIFICANTLY -- HE IS NOT  
18 SUFFERING FROM ANY SIGNIFICANTLY IMPAIRED ABILITY DUE TO  
19 HIS ASD, CORRECT?

20 A. THAT IS A SPECIFIC STATEMENT WITH REGARD TO HIS  
21 ABILITY TO UNDERSTAND THE WRONGFULNESS OF HIS BEHAVIOR  
22 OR TO EXERCISE THE POWER OF REASON OR TO CONTROL HIS  
23 BEHAVIOR.

24 Q. SO EXPLAIN A LITTLE BIT ABOUT THAT. DID YOU  
25 FIND THAT HE DOES HAVE THE APPRECIATION OF THE

1       WRONGFULNESS OF HIS BEHAVIOR?

2       A.           YES AND NO.   AGAIN, IT'S NOT -- IT CAN'T BE  
3       CLASSIFIED EXCLUSIVELY ONE OR THE OTHER.   HE CLEARLY  
4       UNDERSTANDS THE LEGAL RAMIFICATIONS, NOT JUST NOW BUT  
5       BEFORE.

6       Q.           BEFORE WHAT?

7       A.           BEFORE HE WAS ARRESTED.   OBVIOUSLY NOW HE IS  
8       QUITE AWARE OF THE LEGAL RAMIFICATIONS.   BUT BEFORE,  
9       THERE WAS ANOTHER INCIDENT THAT DIDN'T RESULT IN  
10      CRIMINAL CHARGES BUT WHERE THE POLICE HAD ALLEGEDLY  
11      BECOME AWARE OF CHILD PORNOGRAPHY, I GUESS, ABOUT TEN  
12      YEARS AGO OR SO.   AND THEY CAME AND TOOK THE COMPUTERS  
13      OUT OF THE HOUSE.   SO ABSENT PRETTY SIGNIFICANT  
14      INTELLECTUAL IMPAIRMENTS, ANYONE IS GOING TO RECOGNIZE  
15      THAT IT'S ILLEGAL AFTER THAT.   ASSUMING EVEN IF HE  
16      DIDN'T KNOW UP TO THAT POINT THAT IT WAS AFTER AN EVENT  
17      LIKE THAT, YOU ARE GOING TO RECOGNIZE THE LEGALITY OF  
18      THAT TYPE OF BEHAVIOR.

19                   MORALLY, IT'S MORE DIFFICULT TO SAY.   AND  
20      A LOT OF THAT HAS TO DO WITH HIS -- THE LACK OF EMPATHY  
21      AND REMORSE, WHICH ARE PART OF HIS DISORDER.

22      Q.           SEX OFFENDERS ALSO DISPLAY THAT, WOULD YOU AGREE  
23      WITH THAT?

24                   MR. ROSE:   OBJECTION.

25                   THE COURT:   SUSTAINED.

1 BY MS. ROTELLA:

2 Q. DO YOU FIND THAT SEX OFFENDERS AND OTHER PEOPLE  
3 -- OTHER CRIMINALS WITHIN THE BUREAU OF PRISONS ALSO  
4 POSSESS THAT -- THOSE SAME THINGS?

5 MR. ROSE: OBJECTION.

6 THE COURT: I DON'T KNOW WHAT "THAT"  
7 MEANS.

8 SUSTAINED.

9 BY MS. ROTELLA:

10 Q. DO YOU FIND THAT OTHER OFFENDERS, INCLUDING SEX  
11 OFFENDERS, WITHIN THE BUREAU OF PRISONS, DO THEY EXHIBIT  
12 A LACK OF REMORSE AND A LACK OF EMPATHY? IS IT  
13 EXCLUSIVE TO ASD?

14 A. NO, ABSOLUTELY NOT. IT'S COMMON AMONG CRIMINALS  
15 AND AMONG SEX OFFENDERS.

16 Q. SO THAT'S THE FIRST PART OF THE QUESTION WHEN  
17 YOU INDICATED DOES HE KNOW WHAT IT IS THAT HE WAS DOING  
18 WAS WRONG.

19 THE SECOND PART IS, IS HE CAPABLE OF  
20 CONTROLLING THAT, OR WAS IT A CHOICE?

21 A. I DIDN'T SEE ANY REAL EVIDENCE TO INDICATE THAT  
22 HE COULD NOT CONTROL HIS BEHAVIOR. I MEAN, HE -- A LOT  
23 OF THIS HAPPENED ABSENT THE AWARENESS OF HIS FAMILY WHO  
24 HE LIVED WITH. SO OBVIOUSLY HE WAS NOT JUST ENGAGING IN  
25 BEHAVIOR, YOU KNOW, HE WAS SELECTIVE ABOUT WHEN HE WOULD

1       ENGAGE IN CERTAIN TYPES OF BEHAVIOR, WHEN HE WENT  
2       THROUGH CERTAIN THINGS THAT HE WOULD DO TO PREVENT  
3       OTHERS FROM BEING AWARE OF A -- THERE WERE TIMES HE  
4       WOULD NOT ENGAGE AND TIMES WHEN HE WOULD. SO I DIDN'T  
5       REALLY SEE ANYTHING TO SUGGEST THAT HE WAS NOT ABLE TO  
6       CONTROL HIS BEHAVIOR.

7       Q.       ALL RIGHT. AND SO ON PAGE 20 OF YOUR REPORT YOU  
8       TALK ABOUT YOU FOUND HIM TO HAVE AN -- THERE ARE SEVERAL  
9       DYNAMIC FACTORS THAT INCREASE HIS RISK OF SEXUAL  
10      RECIDIVISM. WOULD YOU GO THROUGH THOSE WITH THE COURT?

11     A.       YES. A LOT OF IT HAS TO DO WITH DYSREGULATION,  
12     MEANING THAT HE -- EMOTIONALLY HE IS, FOR LACK OF A  
13     LETTER WORD, UNSTABLE, HE IS EMOTIONALLY UNSTABLE. AND  
14     HE IS ENGAGED IN THIS TYPE OF BEHAVIOR AS A WAY TO  
15     RELIEVE STRESS AND TO COPE WITH SOME OF HIS EMOTIONAL  
16     DIFFICULTIES. HE HAS -- THESE ARE THINGS THAT HAVE BEEN  
17     FOUND IN RESEARCH TO BE CORRELATED WITH INCREASED RISK.  
18     IT DOES NOT NECESSARILY MEAN THAT THEY CAUSE IT, BUT  
19     THEY ARE -- THEY HAVE BEEN FOUND TO BE ASSOCIATED WITH  
20     INCREASED RISK. HIS INTIMACY DEFICITS, THE DIFFICULTIES  
21     HE HAS WITH RELATIONSHIPS AND THE BLURRED LINE BETWEEN  
22     LOVE AND SEX, THAT TYPE OF THING. HIS SOCIAL SKILL  
23     DEFICITS AND OBVIOUSLY HIS DEVIANT INTERESTS IN  
24     CHILDREN.

25                   A BIG PART OF THE RECIDIVISM ISSUE IS



1       WHETHER OR NOT -- MANY PEOPLE THAT YOU ARE DOING AN  
2       EVALUATION ON WITH REGARD TO RECIDIVISM, YOU HAVE ONE  
3       BEHAVIOR, AND YOU ARE TRYING TO PREDICT THE LIKELIHOOD  
4       THAT THEY WILL NOT GO ON AND REENGAGE IN THAT BEHAVIOR.  
5       WHEN YOU HAVE MULTIPLE POINTS OF SIMILAR TYPES OF  
6       BEHAVIOR, THAT BY DEFINITION IS AN INCREASED RISK OF  
7       RECIDIVISM BECAUSE THEY -- FOR EXAMPLE, IN HIS CASE, MR.  
8       SHORE'S CASE, HE WAS CAUGHT ONCE WITH CHILD PORNOGRAPHY  
9       AND WENT AHEAD AND CONTINUE DOING IT AND GOT IN TROUBLE  
10      FOR IT AGAIN.  ONCE YOU HAVE AN INCIDENT WHERE YOU ARE  
11      -- WHERE THE ISSUE IS IDENTIFIED AND THERE ARE  
12      CONSEQUENCES, AND IN THIS CASE HE DID NOT GO TO JAIL BUT  
13      PEOPLE BECAME AWARE OF IT, HIS COMPUTER GOT TAKEN.  AND  
14      THEN YOU GO ON TO ENGAGE IN SIMILAR BEHAVIOR AGAIN, THAT  
15      INDICATES SOME TYPE OF PROBLEM IN EITHER LEARNING THAT I  
16      SHOULD NOT DO THIS OR KNOWING I SHOULD NOT DO THIS, BUT  
17      I'M GOING TO DO IT ANYWAY, WHICH IS INVOLVED WITH  
18      INCREASED RISK OF RECIDIVISM.  SO THE FACT THAT THAT HAD  
19      OCCURRED IS A DYNAMIC RISK VARIABLE.

20                   THE COURT:  THE CONSEQUENCES WAS NOTHING  
21      MORE THAN TAKING AWAY THE COMPUTER?

22                   THE WITNESS:  WELL, THERE WAS A  
23      DISCUSSION WITH THE FAMILY ABOUT IT.

24                   THE COURT:  WHAT HAPPENED?

25                   THE WITNESS:  WELL, I MEAN, I BELIEVE

1        THAT'S A PRETTY SIGNIFICANT CONSEQUENCE BEING IMPOSED.

2                        THE COURT:    DO YOU KNOW WHAT THAT WAS AND  
3        WHAT HAPPENED?

4                        THE WITNESS:    I TALKED TO HIS MOTHER  
5        ABOUT IT.

6                        THE COURT:    SO THERE WAS NO REAL  
7        CONSEQUENCE LIKE THERE IS NOW?

8                        THE WITNESS:    WELL, I MEAN --

9                        THE COURT:    WOULD YOU CHARACTERIZE IT AS  
10       A SIGNIFICANT CONSEQUENCE?

11                       THE WITNESS:    NO, IT WASN'T A SIGNIFICANT  
12       CONSEQUENCE.    IT WAS A CONSEQUENCE, BUT NOT SIGNIFICANT.  
13       BUT NONETHELESS, IT WAS A BEHAVIOR THAT REPEATED AFTER  
14       IT WAS BROUGHT TO HIS KNOWLEDGE.

15       BY MS. ROTELLA:

16       Q.            THAT'S NOT THE ONLY FACTOR IN HIS HISTORY,  
17       THOUGH, CORRECT?

18       A.            NO, THERE HAVE BEEN OTHER FACTORS.    THERE WAS  
19       THE INCIDENT WITH HIS SISTER.    THERE ARE THE RULES THAT  
20       HAVE BEEN PUT IN PLACE BY THE FAMILY.    I DON'T KNOW THAT  
21       THOSE -- I DON'T KNOW SPECIFICALLY WHAT BEHAVIORS HE  
22       ENGAGED IN THAT CAUSED THEM TO WANT HIM TO NOT -- WANT  
23       HIM TO NOT HUG GIRLS AND OTHER THINGS LIKE THAT.    BUT  
24       THEY HAD PRETTY MUCH SET UP SOME RULES FROM PREVENTING  
25       HIM FROM DOING THOSE TYPES OF THINGS.    SO IT WAS A

1       PATTERN OF BEHAVIOR.

2       Q.           ALL RIGHT.   AND SO, DR. CHANNELL, YOU HAD --  
3       WOULD YOU CLASSIFY WHETHER THOSE OPINIONS THAT YOU HAVE  
4       REACHED ARE WITHIN A REASONABLE DEGREE OF SCIENTIFIC  
5       CERTAINTY?

6       A.           YES.

7                   MS. ROTELLA:   THAT'S ALL I HAVE FOR HIM,  
8       YOUR HONOR.   THANK YOU.

9                   MR. ROSE:   YOUR HONOR, MAY I HAVE A 5 OR  
10      10 MINUTE BREAK?

11                   THE COURT:   SURE.

12                   (SORT RECESS WAS TAKEN.)

13                   THE COURT:   PLEASE BE SEATED.

14                   MR. ROSE, YOU MAY PROCEED.

15                   MR. ROSE:   THANK YOU, YOUR HONOR.

16                   CROSS-EXAMINATION

17      BY MR. ROSE:

18      Q.           DR. CHANNELL, YOU LISTENED TO DR. ATKINS'S  
19      TESTIMONY BECAUSE YOU WERE IN THE COURTROOM?

20      A.           YES.

21      Q.           OTHER THAN THIS ISSUE OF THE DIAGNOSIS OF  
22      PEDOPHILIA, YOU LARGELY AGREE WITH WHAT HE SAID, IS THAT  
23      FAIR TO SAY?

24      A.           NO.

25      Q.           NO.   OKAY.   THE AREAS THAT YOU DISAGREE WITH HIM

1       YOU HAVE TALKED ABOUT ON YOUR DIRECT EXAMINATION  
2       ALREADY?

3       A.       SOME OF THEM.

4       Q.       YES.   OKAY.   NOW, I JUST WANT TO GO OVER SOME OF  
5       THE PARTS OF YOUR REPORT THAT WE HAVE.

6                       WHEN YOU WERE WITH HIM FROM DECEMBER 21ST  
7       TO DECEMBER -- TO FEBRUARY 26TH OF THIS YEAR, HOW MANY  
8       TIMES DID YOU ACTUALLY MEET WITH HIM FOR INTERVIEWS?

9       A.       WELL, THE EVALUATION WAS CONDUCTED BY ME AND A  
10      PRE-DOCTOR, INTERN.   BUT THE TWO OF US MET -- HAD A  
11      MEETING WITH HIM TOGETHER.   I BELIEVE I MET WITH HIM  
12      FOUR TIMES DIRECTLY.

13      Q.       AND EACH TIME, HOW LONG WERE YOU WITH HIM?

14      A.       WELL, THERE WERE FOUR INTERVIEWS THAT WERE  
15      AROUND AN HOUR-AND-A-HALF TO TWO HOURS.   AND THERE WERE  
16      ONE OR TWO OCCASIONS WHEN I HAD TO GO TO HIS UNIT TO SEE  
17      HIM.   AND I DON'T RECALL EXACTLY HOW LONG I WAS ON THE  
18      UNIT.

19      Q.       YOU WERE NOT WITH HIM MORE THAN EIGHT HOURS,  
20      WERE YOU?

21      A.       I WOULDN'T SAY I WAS WITH HIM MORE THAN EIGHT  
22      HOURS, NO.

23      Q.       DR. ATKINS SAID HE WAS WITH HIM FOR EIGHT HOURS,  
24      TOO.   DO YOU RECALL THAT?

25      A.       YES, BUT HONESTLY BASED ON WHAT WAS IN THE

1 REPORT, I AM NOT ENTIRELY CLEAR ON WHAT INFORMATION WAS  
2 OBTAINED DURING THOSE EIGHT HOURS.

3 Q. OKAY. SO WHEN HE WAS AT FMC DEVENS, HE HAD  
4 ISSUES THERE THAT YOU MENTIONED IN YOUR REPORT. FOR  
5 EXAMPLE, ON DECEMBER 28, 2017, ONLY SEVEN DAYS AFTER HIS  
6 ARRIVAL HE REPORTED THAT HE WAS SEXUALLY PROPOSITIONED?

7 A. THAT'S RIGHT.

8 Q. AND ON -- AS A RESULT OF THAT, HE WAS  
9 TRANSFERRED TO SOME OTHER LOCATION?

10 A. A DIFFERENT UNIT THAN WHAT THE OTHER INDIVIDUAL  
11 WAS ON.

12 Q. AND ON DECEMBER 29TH, THE DAY AFTER THAT, HE  
13 REPORTED THAT HE HAD BEEN HARASSED BY OTHER INMATES?

14 A. YES.

15 Q. DO YOU RECALL WHAT THE HARASSMENT REPORT WAS?

16 A. YES, THAT THEY WERE ASKING HIM WHY HE WAS THERE,  
17 WHY WAS HE IN PRISON, WHICH BOTHERED HIM.

18 Q. AND THEN ONE TIME WHEN YOU WENT TO SEE HIM AT  
19 HIS CELL, YOU FOUND HIM UNDER HIS SINK SHAKING AND  
20 CRYING BECAUSE HE WAS WORRIED HE WOULD BE MOVED TO A  
21 DIFFERENT CELL, SOMETHING OF THAT NATURE?

22 A. THEY WERE GOING TO PUT A ROOMMATE IN WITH HIM.

23 Q. DID THEY DO SO?

24 A. NO, I TOLD THEM NOT TO.

25 Q. WHY DID YOU TELL THEM NOT TO?

1 A. BECAUSE HE WAS SO UPSET THAT HE WAS SHAKING.

2 Q. WHY WAS HE SO UPSET?

3 A. BECAUSE HE WANTED TO STAY BY HIMSELF.

4 Q. WHY?

5 A. MOST INMATES LIKE TO STAY BY THEMSELVES.

6 Q. BUT THERE'S MORE TO IT IN THIS CASE, ISN'T THERE  
7 SIR? HE WANTED TO BE BY HIMSELF BECAUSE HE WAS AFRAID  
8 HE COULD NOT COPE WITH ANOTHER INMATE, TRUE?

9 A. I DON'T KNOW.

10 Q. DOCTOR, WHILE HE WAS UNDER YOUR WATCH, HE HAD  
11 MIGRAINES, NIGHTMARES, ANXIETY ATTACKS, SLEEP  
12 DISRUPTION. AM I CORRECT?

13 A. YES.

14 Q. HE HAD HYPERTENSION, HE HAD TOPROL FOR HIGH  
15 BLOOD PRESSURE?

16 A. YES.

17 Q. HE SUFFERED FROM LACK OF ANXIETY -- I'M SORRY,  
18 FROM LACK OF APPETITE?

19 A. YES.

20 Q. AND I AM INFORMED THAT HE NEVER LEFT HIS CELL  
21 EXCEPT TO GO OUT FOR THINGS THAT HE HAD TO GO OUT FOR,  
22 LIKE COMMISSARY OR MAIL OR MEDICATION. IS THAT TRUE?

23 A. I DON'T KNOW ANYTHING TO INDICATE THAT IT ISN'T.

24 Q. WHY WAS HE DOING THAT?

25 MS. ROTELLA: OBJECTION.

1 MR. ROSE: IF YOU KNOW.

2 THE COURT: CAN YOU DRAW A CONCLUSION AS  
3 TO WHY HE WAS DOING THAT?

4 THE WITNESS: WELL, I KNOW HE FELT  
5 UNCOMFORTABLE THERE. HE WAS SCARED.

6 THE COURT: AT DEVENS?

7 THE WITNESS: YES.

8 THE COURT: LET ME GO BACK A MINUTE. YOU  
9 SAID WHEN MR. ROSE ASKED YOU ABOUT HIM BEING UNDER THE  
10 BUNK CRYING, YOU SAID THAT YOU RECOMMENDED THAT HE BE  
11 SINGLED, RIGHT?

12 THE WITNESS: THAT'S RIGHT.

13 THE COURT: AND YOU SAID THAT WHEN ASKED  
14 WHY YOU WERE REQUESTING THAT, YOU SAID BECAUSE MANY  
15 INMATES WANT TO BE ALONE. THAT'S NOT UNUSUAL IN THE  
16 SYSTEM, IS IT?

17 THE WITNESS: NO.

18 THE COURT: BUT WOULD YOU RECOMMEND IT IF  
19 YOU FELT THE PERSON WAS MALINGERING OR TRYING TO FOOL  
20 YOU?

21 THE WITNESS: NO, IT WAS AN ACCOMMODATION  
22 FOR HIM.

23 THE COURT: ONE THAT HE NEEDED?

24 THE WITNESS: YES.

25 THE COURT: GO AHEAD.

1 BY MR. ROSE:

2 Q. WHAT WAS THE TREATMENT FOR THE MIGRAINES?

3 A. THEY GAVE HIM -- I BELIEVE IT WAS AMITRIPTYLINE,  
4 BUT I DON'T THINK HE TOOK IT. I WOULD HAVE TO GO BACK  
5 AND LOOK AT THE REPORT.

6 Q. THAT'S ANOTHER THING IN YOUR REPORT, YOU SAY  
7 THAT HE WON'T TAKE ANTIDEPRESSANTS?

8 A. THAT'S RIGHT.

9 Q. WHY WAS THAT?

10 A. HE SAID THAT HE WAS ON, I WANT TO SAY ZOLOFT.  
11 AGAIN, I WILL HAVE TO REFER TO THE REPORT, BUT IT MADE  
12 HIM FEEL SUICIDAL, AND HE DID NOT WANT TO TAKE  
13 ANTIDEPRESSANTS ANY MORE.

14 Q. HE HAD MANY CONVERSATIONS WITH YOU ABOUT  
15 SUICIDAL IDEATION, DID HE NOT?

16 A. YES.

17 Q. DID YOU THINK HE WAS SUICIDAL?

18 A. NO, I NEVER PUT HIM ON SUICIDE WATCH, WHICH I  
19 WOULD HAVE IF I THOUGHT HE WAS GOING TO HARM HIMSELF.

20 Q. IS IT FAIR TO SAY THAT HE MIGHT HAVE REFRAINED  
21 FROM REPORTING HARASSMENT OF OTHER INMATES IN ORDER TO  
22 AVOID THE LIKELIHOOD THAT HE MIGHT BE PUT IN SOLITARY OR  
23 RESTRICTIVE HOUSING?

24 A. NO. I MEAN, HE REPORTED IT TWICE AND HE WAS  
25 NEVER PUT IN RESTRICTIVE HOUSING --



1 Q. AND THAT WAS --

2 MS. ROTELLA: CAN HE ANSWER?

3 THE WITNESS: I MADE IT VERY CLEAR TO MR.  
4 SHORE THAT I DID NOT WANT TO PUT HIM IN RESTRICTIVE  
5 HOUSING BECAUSE I KNEW HOW DIFFICULT IT WOULD BE FOR  
6 HIM. SO NO, I HAVE NO REASON TO BELIEVE THAT IF HE WERE  
7 BEING HARASSED THAT HE WOULDN'T HAVE TOLD ME.

8 Q. WHEN DID YOU TELL HIM THAT HE MIGHT BE PLACED IN  
9 RESTRICTIVE HOUSING IF HE CONTINUED TO REPORT  
10 HARASSMENT?

11 A. I NEVER TOLD HIM THAT.

12 Q. YOU TOLD HIM THAT HE SHOULDN'T BE IN RESTRICTIVE  
13 HOUSING?

14 A. I TOLD HIM I DID NOT WANT -- THAT I WAS GOING TO  
15 DO EVERYTHING I COULD TO KEEP HIM OUT OF RESTRICTIVE  
16 HOUSING.

17 Q. WHEN WAS THAT CONVERSATION?

18 A. MANY TIMES THROUGHOUT THE ENTIRE EVALUATION.

19 Q. DO YOU THINK IT'S POSSIBLE THAT AS A RESULT OF  
20 THOSE CONVERSATIONS HE RESTRAINED HIMSELF IN REPORTING  
21 OTHER HARASSMENTS FROM FEAR OF THAT ASSIGNMENT?

22 A. THAT'S COUNTERINTUITIVE. NO, I DON'T BELIEVE  
23 THAT.

24 Q. NOW, DID HE HAVE PANIC AND ANXIETY ATTACKS WHILE  
25 HE WAS THERE?

1 A. YES.

2 Q. HOW OFTEN?

3 A. I DON'T RECALL HOW OFTEN, BUT THEY WERE  
4 FREQUENT.

5 Q. FREQUENT, MEANING DAILY?

6 A. AT LEAST DAILY, YES.

7 Q. AND WHAT WOULD BE DONE FOR HIM WHEN THAT  
8 HAPPENED?

9 A. WELL, IF IT WAS BAD ENOUGH THAT HE FELT LIKE HE  
10 NEEDED TO SEE SOMEBODY, HE COULD LET THE OFFICER KNOW  
11 AND THEY COULD CALL US. NORMALLY THE WAY WE WOULD TREAT  
12 THAT IS THROUGH THERAPY AND MEDICATION.

13 Q. HOW OFTEN DID YOU GET CALLED TO REPORT THAT HE  
14 HAD ANXIETY?

15 A. THE ONLY TIME I WAS CALLED IS THE DAY THAT I  
16 WENT UP AND HE WAS UNDER THE SINK.

17 Q. SO IF HE IS GETTING PANIC ATTACKS DAILY, AND YOU  
18 ARE TELLING US ONLY ONE TIME WAS IT REPORTED TO YOU --

19 A. MOST PEOPLE WHO HAVE PANIC ATTACKS ARE ABLE TO  
20 MUSCLE THROUGH IT. IT DOES NOT -- IT'S NOT A CRISIS  
21 SITUATION TO HAVE A PANIC ATTACK.

22 Q. DID YOU SEE HIS BEHAVIOR TODAY AT THIS TABLE?

23 A. YES.

24 Q. HAVE YOU SEEN HIM BEHAVE LIKE THAT IN YOUR  
25 COMPANY?

1       A.           YES.

2       Q.           WE SAW IT WHEN WE WERE WITH HIM AT THE CELL AT  
3       THE U.S. MARSHALS OFFICE HERE IN THE FEDERAL DETENTION  
4       CENTER.

5                   THE COURT:   CAN YOU DESCRIBE WHAT WE SAW  
6       IN COURT TODAY FOR THE RECORD?

7                   MR. ROSE:   YOU ARE RIGHT, JUDGE.

8                   THE WITNESS:  CRYING, FACE DOWN, VERY  
9       UPSET, FROM WHAT I OBSERVED.  THERE MAY HAVE BEEN OTHER  
10      THINGS.

11      BY MR. ROSE:

12      Q.           AND WHAT YOU SAW HERE YOU HAD SEEN AT THE FMC  
13      DEVENS?

14      A.           YES.

15      Q.           HOW OFTEN?

16      A.           IT VARIED.  ACTUALLY, BY THE END HE WAS DOING  
17      BETTER.  THE LAST MEETING THAT I HAD WITH HIM HE HAD  
18      INDICATED HE WAS FEELING BETTER.  BEFORE THAT IT WOULD  
19      VARY.  SOMETIMES HE WOULD BE BETTER, OTHER TIMES HE  
20      WOULD BE WORSE.  BUT I SAW HIM FREQUENTLY LIKE THAT.

21      Q.           DOES IT SURPRISE YOU TO HEAR THAT HE HAD SUCH  
22      EPISODES AFTER HE GOT BACK FROM PHILADELPHIA?

23      A.           NO.

24      Q.           WHAT WOULD YOU RECOMMEND FOR TREATMENT OF SUCH  
25      AN EPISODE?

1       A.           WELL, AGAIN, IT WOULD BE PSYCHOTHERAPY AND  
2       MEDICATION.

3       Q.           AND BY MEDICATION, YOU MEAN BY WAY OF  
4       ANTIDEPRESSION MEDICATION?

5       A.           I AM NOT A PSYCHIATRIST, BUT IN GENERAL, YES.  
6       AND ANTIDEPRESSANT FOR HIS ANXIETY.

7       Q.           AT THE FDC HERE IN PHILADELPHIA, HE WASN'T  
8       EATING VERY MUCH. WAS THAT THE WAY THAT YOU SAW IT  
9       THERE WHEN HE WAS AT DEVENS?

10                   MS. ROTELLA: OBJECTION.

11                   THE COURT: OVERRULED.

12                   THE WITNESS: THERE WAS A PERIOD OF TIME  
13       WHERE HE WAS NOT EATING VERY MUCH.

14       BY MR. ROSE:

15       Q.           WHY WAS THAT?

16       A.           HE TOLD ME IT WAS BECAUSE HE DIDN'T LIKE THE  
17       FOOD, THAT HE PREFERRED HOME COOKED MEALS.

18       Q.           HE CERTAINLY WAS NOT EXPECTING HOME COOKED  
19       MEALS, WAS HE?

20       A.           I DON'T KNOW WHAT HE WAS EXPECTING. THAT'S WHAT  
21       HE TOLD ME.

22                   THE COURT: YOU CAN ASSUME HE WASN'T.  
23       THAT DOES NOT MEAN THAT HIS COMMENT WAS NOT  
24       INAPPROPRIATE.

25       BY MR. ROSE:

1 Q. DOCTOR, IN YOUR REPORT YOU TALK ABOUT HIS HAVING  
2 BEEN PLACED IN SPECIAL EDUCATION CLASSES BY THE TIME HE  
3 WAS IN SEVENTH GRADE. DO YOU RECALL THAT?

4 A. YES.

5 Q. THAT'S WHEN HE WAS IN SCHOOL, IN ELEMENTARY  
6 SCHOOL, YOU SAID THAT HE WAS EATING CRAYONS?

7 A. YES.

8 Q. PICKING HIS SKIN?

9 A. MM-HMM, YES.

10 Q. BITING HIS NAILS?

11 A. YES.

12 Q. HE IS STILL DOING THAT THESE DAYS, I MEAN, HE'S  
13 STILL DOING THAT AT DEVENS, WASN'T HE?

14 A. I DON'T THINK HE EATS CRAYONS ANY MORE.

15 Q. THANK YOU.

16 HOW ABOUT PICKING HIS SKIN AND BITING HIS  
17 NAILS?

18 A. YES, BOTH, YES.

19 Q. WHY DOES HE DO THAT, DO YOU KNOW?

20 A. ANXIETY.

21 Q. IN FACT, HE TOLD YOU THAT HIS CHILDHOOD WAS  
22 ABSOLUTELY MISERABLE DUE TO BULLYING, IS THAT CORRECT?

23 A. YES.

24 Q. AND THIS BULLYING CONTINUED THROUGH HIS PUBLIC  
25 EDUCATION, CORRECT?

1       A.           YES.

2       Q.           WHY WERE PEOPLE BULLYING HIM, IF YOU KNOW?

3       A.           I DON'T KNOW, SPECIFICALLY. I MEAN, I CAN MAKE  
4       CONJECTURE, BUT I DON'T KNOW EXACTLY.

5       Q.           DID YOU ASK HIM WHY HE WAS BEING BULLIED?

6       A.           I DON'T RECALL ASKING HIM THAT, NO.

7       Q.           DID YOU THINK IT WAS IMPORTANT?

8       A.           I MEAN, I FEEL LIKE I HAVE A PRETTY GOOD IDEA  
9       WHY HE WAS BEING BULLIED WITHOUT ASKING HIM. I MEAN,  
10      MOST INDIVIDUALS WHO ARE ODD OR EXCENTRIC STAND OUT IN A  
11      SCHOOL SYSTEM AND ARE RIDICULED AND PICKED ON BECAUSE OF  
12      THAT.

13      Q.           WHY WAS HE EXPELLED FROM HIGH SCHOOL?

14                   MS. ROTELLA: OBJECTION.

15                   MR. ROSE: IT'S IN HIS REPORT.

16                   THE COURT: OVERRULED.

17                   THE WITNESS: I BELIEVE IT WAS BEING  
18      INVOLVED IN A FIGHT, IF I RECALL CORRECTLY.

19      BY MR. ROSE:

20      Q.           AND THEN YOU REPORT ABOUT HIS -- AND I USE THIS  
21      TERM IN QUOTES "ENGAGEMENT." DO YOU RECALL THAT, HE WAS  
22      ENGAGED TO A FEMALE, AN ADULT FEMALE?

23      A.           THAT'S WHAT HE REPORTED TO ME, YES.

24      Q.           AND YOU SPOKE TO HIS MOTHER, DIDN'T YOU?

25      A.           YES.

1 Q. SHE IS HERE TODAY?

2 A. I DON'T KNOW IF SHE TOLD ME THEY WERE ENGAGED OR  
3 NOT, BUT I KNOW THAT THEY WERE TOGETHER AND THAT SHE  
4 LIVED WITH HIM FOR A PERIOD OF TIME.

5 Q. AND THIS WOMAN, HOW OLD IS THIS WOMAN?

6 A. SHE WAS AN ADULT. I DON'T REMEMBER HOW OLD SHE  
7 WAS.

8 Q. AM I CORRECT, ACCORDING TO WHAT I HEARD FROM  
9 YOUR REPORT, THAT HE AND HIS FAMILY WERE VICTIMIZED BY  
10 THIS WOMAN?

11 A. SHE STOLE FROM THEM, YEAH.

12 Q. AND THEY HAD TO KICK HER OUT?

13 A. I DON'T KNOW EXACTLY IF THEY KICKED HER OUT. I  
14 CAN'T REMEMBER.

15 Q. HOW OLD WAS HE WHEN THIS ISSUE OCCURRED?

16 A. I WOULD HAVE TO GO BACK AND LOOK AT THE REPORT.  
17 IT WASN'T A LONG, LONG TIME AGO. IT WAS FAIRLY RECENT.

18 Q. RIGHT. NOW, IN THE INDICTMENT, COUNTS 1 THROUGH  
19 9, IN WHICH -- NOT COUNTING COUNT 10, WHICH IS THE CHILD  
20 PORNOGRAPHY. ALL OF THE COMPLAINANTS AND THE VICTIMS IN  
21 THAT WERE PUBESCENT, THEY WERE NOT PREPUBESCENT, AM I  
22 CORRECT?

23 A. AT THE TIME OF THE COMPLAINT, YES.

24 Q. OKAY. AND YOU HAVE TOLD US THAT THIS DEFENDANT  
25 WAS GIVEN TESTS BY YOU. ONE OF THE TESTS THAT DR.

1 HAWORTH AND DR. ATKINS PROVIDED TO THE DEFENDANT WAS THE  
2 ABEL TEST. YOU HAVE READ THAT?

3 A. NO, BECAUSE I HAVE NEVER SEEN THAT OR -- TODAY  
4 WAS THE FIRST I HEARD THAT IT EVEN EXISTED.

5 Q. I ASKED YOU WHY YOU DIDN'T GIVE THAT TEST.

6 A. WELL, THAT'S A TEST THAT IS PRIMARILY USED IN  
7 TREATMENT TO DETERMINE THE INABILITY WITHIN TREATMENT.  
8 AGAIN, IT HAS A LOT OF FACE VALIDITY IN THAT IF YOU ARE  
9 GOING TO DENY HAVING SEXUAL PREFERENCE, IT'S GOING TO  
10 SAY THAT YOU DON'T HAVE A SEXUAL PREFERENCE.

11 THERE ARE OTHER INDICATORS IN THAT TEST  
12 THAT CAN INDICATE WHETHER SOMEBODY IS BEING DISHONEST  
13 AND THINGS LIKE THAT, BUT I HAVE NOT SEEN IT, SO I DON'T  
14 KNOW WHAT THE RESULTS ARE. BUT I DON'T USE IT.

15 Q. IF WE PROVIDE IT TO YOU AFTER THIS HEARING,  
16 WOULD YOU BE ABLE TO DO AN ASSESSMENT?

17 A. TODAY?

18 Q. NOT TODAY.

19 BASED UPON THIS EMPIRICAL TEST, THESE TWO  
20 DOCTORS CONCLUDED THAT THIS DEFENDANT WAS NOT A  
21 PEDOPHILIC PERSONALITY. YOU WOULD DISAGREE, CORRECT?

22 A. YES.

23 Q. NOW, ONE OF THE THINGS THAT WE ALL AGREE UPON IS  
24 THAT HE APPARENTLY PURSUES FANTASY, HE LIVES IN A  
25 FANTASY SUBCULTURE. WOULD YOU AGREE?



1       A.           HE IS INTERESTED IN FANTASY TYPES OF  
2       ENTERTAINMENT.

3       Q.           THE DOCTOR --

4       A.           ARE YOU SAYING THAT HE LIVES IN FANTASY? I  
5       DON'T AGREE WITH THAT, BUT HE IS INTERESTED IN THINGS  
6       THAT ARE INVOLVED IN THE FANTASY GENRE.

7       Q.           HE IS NOT DISINTERESTED, HE PURSUES IT  
8       RELENTLESSLY, DOESN'T IT? DIDN'T HE?

9       A.           I DON'T -- I DON'T KNOW HOW TO DEFINE, "HE  
10      PURSUES RELENTLESSLY," BUT HE IS VERY INTERESTED IN IT.

11      Q.           WE KNOW THAT HE IS INTERESTED IN ROLE PLAYING,  
12      CORRECT?

13      A.           YES.

14      Q.           SO AS A ROLE PLAYER, THE FACT THAT HE MIGHT  
15      PURSUE IMPERSONATION, WHICH I THINK IS A TERM THAT YOU  
16      USED, SHOULD NOT BE A SURPRISE TO ANYONE, CORRECT?

17      A.           I DON'T BELIEVE THAT YOU CAN A EQUATE CUZ, BUDDY  
18      OR DRESSING UP IN COSTUME AND GOING TO CONVENTIONS WITH  
19      PRETENDING TO BE A CHILD FOR THE PURPOSES OF OBTAINING  
20      SEXUALLY EXPLICIT IMAGES, THOSE ARE NOT COMPARABLE.

21      Q.           DOCTOR, A PERSON WHO SUFFERS FROM ASD AND  
22      PRESENTS HIMSELF AS LIVING IN FANTASY AND SEEKING TO  
23      PLAY ROLES IS DOING THAT BECAUSE HE DOES NOT WANT TO BE  
24      PERCEIVED AS WHO HE REALLY IS. ISN'T THAT FAIR TO SAY?

25      A.           I DON'T NECESSARILY AGREE WITH THAT, NO.

1 Q. DR. ATKINS SO TESTIFIED. YOU JUST DISAGREE WITH  
2 THAT ALSO?

3 A. YES.

4 Q. SO THE POINT IS, A PERSON WITH ASD WHO PLAYS  
5 INTO ROLES, LIKE WEARING COSTUMES AND PRETENDING HE IS  
6 PERSONS THAT HE ISN'T, DOES NOT WANT TO BE REJECTED AS  
7 THE PERSON HE ACTUALLY IS. IS THAT A FAIR STATEMENT?

8 A. I DON'T BELIEVE THAT MR. SHORE CONSISTENTLY  
9 PRESENTED HIMSELF AS SOMETHING THAT HE WAS NOT. IN A  
10 WAY THAT WOULD SATISFY THAT DEFINITION. SOMETIMES HE  
11 WAS HONEST ABOUT WHO HE WAS, THAT HE WAS 33. AND HE MET  
12 THEM -- THEY SAW THEM -- THEY SAW HIM AS HE WAS. SO  
13 WHEN YOU SAY A PERSON WITH ASD, I DON'T KNOW WHO THAT  
14 PERSON IS. IF YOU ARE ASKING ABOUT MR. SHORE, I DO NOT  
15 BELIEVE THAT THAT IS ACCURATE.

16 THE COURT: LET ME ASK YOU THIS: IS IT  
17 CHARACTERISTIC OF SOMEONE WITH ASD TO BE COMFORTABLE OR  
18 UNCOMFORTABLE WITHIN THEIR OWN SKIN?

19 THE WITNESS: IT VARIES. SOME ARE  
20 COMFORTABLE AND SOME AREN'T.

21 THE COURT: AND HOW DO YOU DIFFERENTIATE?

22 THE WITNESS: THEY SELF REPORT.

23 THE COURT: WHAT?

24 THE WITNESS: THEY WILL SELF REPORT.

25 THE COURT: AREN'T THEY ACCUSED?

1 THE WITNESS: SURE. YOU CAN SEE  
2 AWKWARDNESS, DIFFICULTY WITH OTHER PEOPLE, SHYNESS,  
3 THOSE TYPES OF THINGS. AND I DON'T BELIEVE FOR A SECOND  
4 THAT MR. SHORE DOES NOT EXHIBIT THOSE TYPES OF  
5 BEHAVIORS. BUT I ALSO DON'T BELIEVE THAT HE LIVES  
6 ENTIRELY IN A FANTASY.

7 THE COURT: HE DOES NOT LIVE IN A FANTASY  
8 WORLD?

9 THE WITNESS: CORRECT.

10 THE COURT: BUT YOU WOULD AGREE HE IS  
11 UNCOMFORTABLE IN HIS OWN SKIN?

12 THE WITNESS: ABSOLUTELY, YES.

13 THE COURT: AND PRETENDS TO BE SOMEONE  
14 OTHER THAN WHO HE IS?

15 THE WITNESS: I DON'T KNOW WHY HE  
16 PRETENDS TO BE SOMEONE OTHER THAN WHO HE IS. I MEAN,  
17 THAT'S A THING. I MEAN, PEOPLE WITHOUT ASD ARE INTO  
18 DRESSING UP AND GOING TO CONVENTIONS AND ALL OF THOSE  
19 TYPES OF THINGS. AND I DON'T KNOW IF HE DOES THAT  
20 BECAUSE HE DOES NOT WANT TO BE WHO HE IS OR NOT, BUT I  
21 KNOW HE DOES NOT -- HE HATES HIMSELF, ESSENTIALLY.

22 THE COURT: OKAY.

23 BY MR. ROSE:

24 Q. WHY DOES HE HATE HIMSELF?

25 A. HE THINKS HE IS INFERIOR.

1 Q. BECAUSE OF HIS ASD?

2 A. WELL, I AM SURE THAT'S PART OF IT.

3 Q. YOU REPEATEDLY COMMENTED IN YOUR TESTIMONY ABOUT  
4 HIS LACK OF EMPATHY.

5 A. YES.

6 Q. THAT'S A FACTOR FROM THE ASD, IS IT NOT?

7 A. VERY COMMON, YES.

8 Q. IT IS ALSO COMMON IN -- WHEN -- IN YOUR BUSINESS  
9 WHEN YOU SEE ALL OF THESE CHILD PORNOGRAPHY OFFENDERS,  
10 WHAT PERCENTAGE OF THEM ARE PEOPLE WITH ASD?

11 A. I DON'T KNOW. I HAVE EVALUATED PEOPLE WITH ASD  
12 WHO ARE CHILD PORNOGRAPHERS. I COULDN'T --

13 Q. IT IS NOT UNCOMMON, THOUGH, IS IT?

14 MS. ROTELLA: CAN HE PLEASE ANSWER THE  
15 QUESTION?

16 THE COURT: I THOUGHT HE WAS DONE.

17 WERE YOU FINISHED?

18 BY MR. ROSE:

19 Q. IS IT UNCOMMON FOR PEOPLE WITH ASD --

20 A. AMONG THE POPULATION OF INDIVIDUALS WITH AUTISM  
21 SPECTRUM DISORDER, IT IS A SMALL PORTION OF THAT  
22 POPULATION WHO ARE INVOLVED IN CHILD PORNOGRAPHY.  
23 THAT'S BASED ON STATISTICAL AND RESEARCH DATA.

24 THAT'S THE BEST ANSWER I CAN GIVE TO THAT  
25 QUESTION.

1 THE COURT: MR. ROSE, CAN WE TAKE A BREAK  
2 NOW? IT DON'T WANT TO INTERRUPT YOU, BUT IS THIS A GOOD  
3 POINT?

4 MR. ROSE: YES, SIR.

5 THE COURT: HALF-HOUR, OKAY?

6 MR. ROSE: OKAY.

7 (SHORT RECESS.)

8 THE COURT: PLEASE BE SEATED.

9 YOU MAY CONTINUE, MR. ROSE.

10 MR. ROSE: THANK YOU.

11 BY MR. ROSE:

12 Q. DR. CHANNELL, I WOULD LIKE TO TALK TO YOU A  
13 LITTLE BIT ABOUT THE BUREAU OF PRISONS SEX OFFENDER  
14 MANAGEMENT AND TREATMENT PROGRAM. IS THAT AVAILABLE AT  
15 THE FMC DEVENS?

16 A. YES, IT IS.

17 Q. CAN YOU TELL US SOMETHING ABOUT THAT PROGRAM?

18 A. YES. IT'S A SEX OFFENDER TREATMENT PROGRAM THAT  
19 IS BASED ON COGNITIVE BEHAVIORAL PRINCIPLES. THEY --  
20 IT'S A COHESIVE UNIT IN THAT ALL OF THE INDIVIDUALS WHO  
21 ARE PARTICIPATING IN THAT PROGRAM LIVE IN THE SAME UNIT.  
22 THEY ARE IN PROGRAMMING MOST OF THE DAY, EVERY DAY,  
23 MEANING INDIVIDUAL SESSIONS, GROUP WORK,  
24 PSYCHOEDUCATIONAL WORK. IT'S A 16 TO 18 MONTH PROGRAM  
25 THAT TYPICALLY -- I DON'T RECALL EXACTLY AT WHAT POINT

1 AN INMATE WOULD BECOME ELIGIBLE FOR IT, BUT IT'S TOWARDS  
2 THE END OF THEIR SENTENCE.

3 Q. IS IT EXPECTED THAT IF SOMEONE COMPLETES THIS  
4 PROGRAM THAT THEY WILL BE IN A BETTER POSITION FOR  
5 RELEASE TO SOCIETY?

6 A. THAT'S THE GOAL, YES.

7 Q. AND WHAT ABOUT PEOPLE WITH MY CLIENT'S  
8 DIAGNOSIS, WOULD THEY BE ELIGIBLE FOR BEING PLACED IN  
9 SUCH A PROGRAM?

10 A. YES.

11 Q. DOES THE BOP HAVE A PROGRAM FOR TREATING PEOPLE  
12 WITH ASD?

13 A. A SPECIFIC PROGRAM, NO, NOT THAT I AM AWARE OF.

14 Q. SO A PERSON LIKE MY CLIENT HERE WITH HIS  
15 DIAGNOSIS, WOULD IT BE EXPECTED THAT HE WOULD REDUCE HIS  
16 RISK OF RECIDIVISM IF HE COMPLETES THIS PROGRAM  
17 SUCCESSFULLY?

18 A. YES.

19 Q. SO WHEN YOU SAID IN YOUR REPORT THAT HE HAS AN  
20 ELEVATED RISK OF ENGAGING IN THIS BEHAVIOR AGAIN, YOU  
21 ARE NOT INCLUDING THE COMPLETION OF HIS SUCCESSFUL  
22 TREATMENT PROGRAM?

23 A. NO, THAT OPINION IS BASED ON FACTS AS THEY STAND  
24 AT THE TIME I WROTE THE REPORT.

25 Q. AND I NOTE THAT IN YOUR REPORT ON PAGE 20, SIR,

1        THAT YOU GAVE THE DEFENDANT A TEST CALLED THE STATIC  
2        99R?

3        A.            YES.

4        Q.            AND THAT CONCLUSION WAS THAT HE PRESENTS AN  
5        AVERAGE RISK OF RE-OFFENDING?

6        A.            YES.

7        Q.            WHAT IS AN AVERAGE RISK OF RE-OFFENDING?

8        A.            AN AVERAGE RISK OF RE-OFFENDING -- WELL, THE  
9        STATIC 99 HAS BEEN REVISED.  INITIALLY THE TEST WAS  
10       DESIGNED TO PROVIDE YOU WITH STATISTICAL INFORMATION TO  
11       COMPARE OTHER INDIVIDUALS TO.  NOW IT PRIMARILY PROVIDES  
12       RECOMMENDATIONS BASED ON THE INDIVIDUAL'S SCORE.

13                    SO FOR MR. SHORE, HIS SCORE WAS A TWO,  
14       WHICH IS CONSIDERED LEVEL 3 ON THE STATIC 99.  THERE ARE  
15       FIVE RISKS, FIVE BEING HIGHEST RISK, ONE BEING THE  
16       LOWEST.  AND THOSE INDIVIDUALS HAVE WHAT WE WOULD CALL  
17       CRIMINOGENIC NEEDS, MEANING THAT THEY ARE ENGAGED IN  
18       CRIMINAL BEHAVIOR THAT WARRANTS TREATMENT.  AND THEY  
19       WOULD REQUIRE INVESTMENTS OR TREATMENT AND STRUCTURED  
20       PROGRAMMING TO DECREASE THEIR RISK OF RECIDIVISM.

21                    SO THAT'S AN AVERAGE RISK AMONG  
22       IDENTIFIED SEX OFFENDERS, NOT COMPARED TO THE GENERAL  
23       PUBLIC.

24       Q.            SO YOU ARE NOT PREPARED TO TESTIFY ABOUT WHAT  
25       PERCENTAGE OF THESE OFFENDERS ARE LIKELY TO RE-OFFEND

1       BASED UPON THIS TEST?

2       A.           NO, NOT ON THE STATIC 99R OR THE STATIC 99  
3       BEFORE IT WAS REVISED. BUT THEY HAVE TRIED TO MOVE MORE  
4       TOWARDS CATEGORICAL EXPLANATIONS OF RISK AS OPPOSED TO  
5       NUMERIC, BECAUSE YOU ARE COMPARING THEM TO OTHER  
6       INDIVIDUALS.

7                   JUST BECAUSE A LARGER GROUP HAS -- I AM  
8       JUST GOING TO THROW A NUMBER OUT THERE -- THE 12 PERCENT  
9       RISK OF RECIDIVISM DOES NOT NECESSARILY MEAN THAT ONE  
10      PARTICULAR INDIVIDUAL HAS THAT SAME LEVEL OF RISK. IT  
11      CAN BE MISLEADING.

12     Q.           DOCTOR, DO YOU AGREE THAT AN ASD INMATE COULD BE  
13     READILY EXPLOITED, ABUSED OR BLACKMAILED BY OTHER  
14     INMATES?

15     A.           YES.

16     Q.           DO YOU AGREE THAT AN ASD INMATE HAS COMPARED  
17     SOCIAL SKILLS THAT COULD LIKELY LEAD TO THEIR BEHAVIORS  
18     BEING MISINTERPRETED BY OTHER INMATES?

19     A.           DEPENDING ON THE INDIVIDUAL, YES.

20     Q.           DO YOU AGREE THAT ASD INMATES ARE OFTEN TARGETS  
21     FOR RETALIATION OR CONTROL BY OTHER INMATES?

22     A.           WELL, I THINK -- THAT'S A FAIRLY GENERALIZED  
23     STATEMENT.

24     Q.           YES, IT IS.

25     A.           IT DEPENDS ON SEVERAL THINGS. IT DEPENDS ON



1       WHAT TYPE OF PRISON THEY ARE IN.   ARE THEY IN A STATE  
2       PRISON OR ARE THEY IN A FEDERAL PRISON?   DEPENDS ON THE  
3       SECURITY AT THE PRISON.   ALL THINGS BEING EQUAL, THEY  
4       ARE MORE LIKELY THAN OTHERS, THOUGH, I WOULD AGREE WITH  
5       THAT.

6 MR. ROSE: JUST A MOMENT, PLEASE.

7 (BRIEF PAUSE IN THE PROCEEDING.)

8 BY MR. ROSE:

9 Q. DOCTOR, THE DEFENDANT'S SOCIAL ATTRACTION TO  
10 CHILDREN AND ADOLESCENTS, IS THAT DIRECTLY RELATED TO  
11 THE ASD?

12 MS. ROTELLA: I'M SORRY, DID HE ASK ABOUT  
13 SOCIAL ATTRACTION TO CHILDREN?

14                                 OBJECTION.

15 THE COURT: THAT'S THE WAY HE  
16 CHARACTERIZED IT, YES.

17 THE WITNESS: NO, THERE IS NO EVIDENCE TO  
18 SUGGEST A CAUSAL RELATIONSHIP BETWEEN AUTISM SPECTRUM  
19 DISORDER AND SEXUAL ATTRACTION TO CHILDREN.

20 BY MR. ROSE:

21 Q. SO YOU WOULD NOT AGREE THAT HIS SEXUAL  
22 ATTRACTION TO CHILDREN AND ADOLESCENTS IS DIRECTLY  
23 RELATED TO HIS ASD?

24           A.           **ABSOLUTELY NOT, NO.**

25 THE COURT: DOES ASD CONTRIBUTE IN ANY

1 WAY TO THE OFFENSE CONDUCT?

2 THE WITNESS: I BELIEVE THAT HIS  
3 ATTRACTION TO SEXUAL -- HIS ATTRACTION TO CHILDREN IS  
4 INDEPENDENT OF AUTISM SPECTRUM DISORDER, IF I AM  
5 UNDERSTANDING THE QUESTION CORRECTLY.

6 THE COURT: I ASKED YOU A DIFFERENT  
7 QUESTION.

8 THE WITNESS: OKAY. I'M SORRY. CAN YOU  
9 REPEAT IT?

10 THE COURT: DID HIS ASD IN ANY WAY  
11 CONTRIBUTE TO HIS OFFENSE CONDUCT?

12 THE WITNESS: YES, I BELIEVE IT  
13 CONTRIBUTED TO HIS OFFENSE CONDUCT.

14 THE COURT: HOW?

15 THE WITNESS: AS WE HAVE SPOKEN ABOUT  
16 EARLIER, HIS EMPATHETIC DEFICIT, HIS LACK OF EMPATHY  
17 ALLOWS HIM TO BE MORE MANIPULATIVE. IT ALLOWS HIM TO  
18 ENGAGE IN BEHAVIORS THAT OTHER PEOPLE THINK, I SHOULD  
19 NOT DO THIS BECAUSE IT IS HURTING THIS OTHER PERSON.  
20 AND THE FACT THAT HE LACKS THAT EMPATHY ALLOWS HIM TO  
21 OVERCOME -- HE DOES NOT TO HAVE WORRY ABOUT THAT TYPE OF  
22 ISSUE, THAT WOULD PROBABLY BE A PRIMARY AREA.

23 I DON'T BELIEVE, AS WAS ARGUED EARLIER,  
24 THAT HE DEVELOPED AN INTEREST IN PREPUBESCENT CHILDREN  
25 OR CHILDREN -- OR PUBERTY AGED TEENAGERS WHEN HE WAS A

1       TEENAGER.   HE BEGAN LOOKING AT PLAYBOY WHEN HE WAS 13.  
2       AND BASED ON ALL OF THE INTERVIEWS THAT I HAVE SEEN WITH  
3       HIM, HE DIDN'T EVER REPORT COLLECTING CHILD PORNOGRAPHY  
4       UNTIL HE WAS IN HIS EARLY 20S.

5                       SO THE IDEA THAT HE KIND OF WAS  
6       INTERESTED IN TEENAGED GIRLS WHEN HE WAS A TEENAGE BOY  
7       AND THAT STUCK THROUGHOUT HIS LIFE, I DON'T BELIEVE THAT  
8       THE EVIDENCE SUPPORTS THAT.   SO I DON'T BELIEVE IN THAT  
9       REGARD THE AUTISM SPECTRUM DISORDER WAS RELATED TO THAT  
10      ATTRACTION.   I BELIEVE THAT HIS SEXUAL PREFERENCE IS  
11      SIMPLY TOWARDS BOTH CHILDREN AND ADULTS.

12                    THE COURT:   HE DOES NOT DISCRIMINATE  
13      AGE-WISE?

14                    THE WITNESS:   CORRECT.

15      BY MR. ROSE:

16      Q.           DOCTOR, DO YOU HAVE YOUR REPORT IN FRONT OF YOU?

17      A.           YES.

18      Q.           CAN YOU PLEASE TURN TO PAGE 23?

19                    MR. ROSE:   MAY I APPROACH THE WITNESS?

20                    THE COURT:   YES.

21      BY MR. ROSE:

22      Q.           23, DOCTOR.

23      A.           I'M SORRY.

24      Q.           COULD YOU READ THE SENTENCE THAT I AM POINTING  
25      TO, THE SENTENCE THAT YOU WROTE?

1       A.           AS A RESULT, HIS SOCIAL ATTRACTION TO CHILDREN  
2       AND ADOLESCENTS IS DIRECTLY RELATED TO HIS ASD.

3       Q.           I ASSUME YOU MEANT HIS SEXUAL ATTRACTION?

4       A.           NO, I MEANT EXACTLY WHAT IT SAYS.

5       Q.           I ASKED YOU A QUESTION ABOUT HIS SOCIAL  
6       INTERACTION, AND YOU SAID, NO.

7       A.           I THOUGHT YOU WERE ASKING ABOUT SEXUAL  
8       ATTRACTION. NO, I AGREE WITH HIS -- HE IS SOCIALLY  
9       ATTRACTED TO YOUNGER FEMALES BECAUSE OF HIS AUTISM  
10      SPECTRUM DISORDER. I AGREE WITH THAT.

11      Q.           AND THEN YOU GO ON TO SAY CONSISTENTLY HIS CHAT  
12      CONVERSATIONS SUGGEST AN EMOTIONAL CONNECTION TO MINORS  
13      CONSISTENT WITH ASD, CORRECT?

14      A.           YES, THAT'S TRUE.

15      Q.           OKAY. NOW --

16                   THE COURT: HOW DOES THAT SQUARE WITH  
17      YOUR ANSWER TO ME THAT THERE WAS NO CONTRIBUTION?

18                   THE WITNESS: WELL, I HAD INDICATED THAT  
19      THERE WAS A CONTRIBUTION. I DON'T BELIEVE THAT THERE IS  
20      -- SOCIAL ATTRACTION, EMOTIONAL CONNECTION DOES NOT  
21      EQUAL SEXUAL ATTRACTION. BOTH ARE SEPARATE THINGS.

22                   THE COURT: YOU DID CHARACTERIZE THE  
23      ASD'S ROLE IN HIS OFFENSE CONDUCT AS QUITE COMPLICATED?

24                   THE WITNESS: IT IS VERY COMPLICATED,  
25      YES.

1 MR. ROSE: ONE MOMENT, YOUR HONOR.

2 BY MR. ROSE:

3 Q. FINALLY, SIR, DO YOU AGREE THAT THE PRESENCE OF  
4 ASD IMPAIRED THE DEFENDANT'S UNDERSTANDING OF THE  
5 WRONGFULNESS OF HIS BEHAVIOR?

6 A. YES, I DO.

7 MR. ROSE: THAT'S ALL I HAVE, JUDGE.

8 THE COURT: DO YOU HAVE ANY REDIRECT?

9 MS. ROTELLA: JUST VERY QUICKLY.

10 REDIRECT EXAMINATION

11 BY MS. ROTELLA:

12 Q. YOU WERE ASKED WHETHER OR NOT THE BUREAU OF  
13 PRISONS HAD ANY SPECIAL PROGRAMS FOR INMATES WITH ASD  
14 AND YOU SAID, NO. HOW IS IT THAT -- YOU DO HAVE INMATES  
15 WITH ASD WITHIN THE BUREAU OF PRISONS, CORRECT?

16 A. RIGHT.

17 Q. WHAT SERVICES ARE AVAILABLE?

18 A. BY "PROGRAM," I MEAN USUALLY IT WOULD BE LIKE A  
19 STRUCTURED PROGRAM WITH A UNIT WHERE THAT INDIVIDUAL  
20 WOULD LIVE, SIMILAR TO WHAT I DESCRIBED FOR THE SEX  
21 OFFENDER TREATMENT PROGRAM. WE HAVE DIFFERENT PROGRAMS  
22 FOR DIFFERENT TYPES OF INDIVIDUALS WHO HAVE A BROAD  
23 VARIETY OF PROBLEMS, BUT THERE ISN'T ONE SPECIFIC TO  
24 AUTISM SPECTRUM DISORDER. THAT DOES NOT MEAN THAT WE  
25 DON'T HAVE THE CAPACITY TO TREAT THE INDIVIDUALS, BUT WE

1 DON'T HAVE SPECIFIC PROGRAMS.

2 Q. WHEN YOU SAY IT DOES NOT MEAN YOU DON'T HAVE,  
3 YOU HAVE -- THE BUREAU OF PRISONS DOES HAVE IT, AND  
4 WOULD BE ABLE TO SERVICE MR. SHORE?

5 A. YES, WE PROVIDE TREATMENT TO INDIVIDUALS. THERE  
6 ARE GROUPS THAT THEY CAN ATTEND; THERE IS INDIVIDUAL  
7 THERAPY THAT THEY CAN ATTEND ALMOST ALWAYS.

8 THEY DO REQUIRE THAT LEVEL OF  
9 INTERVENTION. THEY ARE THE MOST -- INDIVIDUALS WITH  
10 AUTISM SPECTRUM DISORDER REQUIRE HEIGHTENED INTERACTION  
11 FROM MENTAL HEALTH SERVICES. NOT TO THE POINT THAT THEY  
12 WOULD REQUIRE INPATIENT TREATMENT OR HOSPITALIZATION,  
13 BUT CERTAINLY MORE THAN MOST INMATES.

14 Q. AND THAT'S -- THE BUREAU OF PRISONS COVERS THAT,  
15 CORRECT, THAT'S WHAT YOU ARE SAYING?

16 A. YES.

17 Q. AND SO THAT WE ARE CLEAR, ASD IN NO WAY LEADS TO  
18 SEXUAL ATTRACTION TO CHILDREN AND CERTAINLY NOT TO  
19 PEDOPHILIA, RIGHT?

20 MR. ROSE: OBJECTION.

21 THE COURT: OVERRULED.

22 THE WITNESS: I AM NOT AWARE OF ANY  
23 EMPIRICAL EVIDENCE TO SUGGEST A RELATIONSHIP -- A DIRECT  
24 CAUSAL RELATIONSHIP BETWEEN AUTISM SPECTRUM DISORDER AND  
25 SEXUAL ATTRACTION TO CHILDREN.

1 THE COURT: CAN YOU RULE IT OUT?

2 THE WITNESS: NO. ALL I CAN SAY IS I AM  
3 NOT AWARE OF ANY EVIDENCE TO INDICATE IT IS PRESENT, BUT  
4 NO, I CANNOT RULE IT OUT.

5 BY MS. ROTELLA:

6 Q. THEN IN YOUR OPINION, DOCTOR, MR. SHORE'S  
7 DIAGNOSIS OF PEDOPHILIA IS NOT DUE TO HIS AUTISM  
8 SPECTRUM DISORDER, IS THAT CORRECT?

9 A. NO, IT'S AN INDEPENDENT DIAGNOSIS BASED --

10 Q. AND YOUR -- I'M SORRY.

11 A. -- BASED ON THE EVIDENCE, THE HISTORICAL  
12 EVIDENCE.

13 Q. AND YOUR TREATMENT AND INTERVIEW AND  
14 INVESTIGATION OF MR. SHORE, CORRECT?

15 A. YES.

16 MS. ROTELLA: THAT'S ALL, YOUR HONOR,  
17 THANK YOU.

18 MR. ROSE: JUST A MOMENT, YOUR HONOR.

19 BY THE COURT:

20 Q. I WANT TO TALK ABOUT THE SEXUAL OFFENDER  
21 MANAGEMENT AND TREATMENT PROGRAM.

22 WHAT IS THE GOAL OF THAT PROGRAM?

23 A. WELL, THE GOAL IS ENTIRELY FOCUSED ON DECREASING  
24 RECIDIVISM.

25 Q. WHAT ELSE?

1 A. THAT'S PRIMARILY IT. I MEAN, THAT'S THE MAIN  
2 GOAL.

3 Q. HOW DO THEY DO THAT?

4 A. HOW DO THEY DO THAT? THEY WOULD DO THAT, AS I  
5 SAID, DURING VICTIM EMPATHY GROUPS, FOR EXAMPLE, WHERE  
6 THEY WOULD DISCUSS THE IMPACT OF THE BEHAVIOR ON THE  
7 INDIVIDUAL, INDIVIDUALS THEY VICTIMIZED, OPEN DISCUSSION  
8 OF THEIR SEXUAL ATTRACTIONS.

9 AND IT DOES NOT FOCUS NECESSARILY ON  
10 CHANGING -- ALLEVIATING THAT SEXUAL ATTRACTION. WHAT IT  
11 FOCUSES ON IS RECOGNIZING THAT YOU HAVE DEVIANT SEXUAL  
12 AROUSAL AND WAYS TO APPROPRIATELY DEAL WITH THAT THAT  
13 DOES NOT INVOLVE VICTIMIZATION OR BREAKING THE LAW.

14 Q. SO THAT YOU CAN AVOID THE CONSEQUENCES OF SUCH  
15 FUTURE BEHAVIOR THAT WOUND UP WHERE YOU ARE AT TODAY?

16 A. YES.

17 Q. THAT'S THE GOAL?

18 A. CORRECT.

19 Q. WHAT IS THE SUCCESS RATE?

20 A. IT VARIES DEPENDING ON THE RESEARCH THAT YOU  
21 WOULD LOOK AT. IT'S BETTER THAN NO TREATMENT AT ALL,  
22 BUT IT'S NOT FANTASTIC. I CANNOT GIVE YOU SPECIFIC  
23 NUMBERS, BUT IT IS A DIFFICULT CONDITION TO TREAT. IT'S  
24 A DIFFICULT ISSUE TO TREAT. IT'S IN MANY WAYS A SEXUAL  
25 ORIENTATION, AND THAT'S VERY DIFFICULT TO ALTER. SO



1 SOME PEOPLE BENEFIT, SOME DON'T, IT VARIES.

2 Q. WE HAVE NO DATA?

3 A. THERE IS DATA. I DON'T HAVE IT READILY  
4 AVAILABLE BUT YES, THERE ARE OUTCOME STUDIES.

5 Q. AND THAT PROGRAM IS GENERALLY BETWEEN 12 AND  
6 18 MONTHS?

7 A. YES.

8 Q. BUT I THINK YOU SAID IT'S AT THE END OF YOUR  
9 SENTENCE, CORRECT?

10 A. THAT'S CORRECT.

11 Q. SO THERE IS NO -- WHAT KIND OF PROGRAM IS THERE  
12 TO HELP SOMEONE AND TREAT SOMEONE BEFORE THEY GET  
13 TOWARDS THE END OF THEIR SENTENCE?

14 A. WITH REGARD TO SEXUAL RISKS?

15 Q. OR THIS WHOLE SITUATION, SOME OF HIS COHORTS?

16 A. WELL, WE HAVE -- ALL OF THE BUREAU OF PRISONS  
17 HAVE MENTAL HEALTH STAFF, PSYCHOLOGISTS, PSYCHIATRIST,  
18 SOCIAL WORKERS THAT PROVIDE MENTAL HEALTH CARE TO THE  
19 INMATES WHO ARE DESIGNATED TO THOSE FACILITIES.

20 SEXUAL DEVIANCE AND SEXUAL RISK -- THERE  
21 ARE TWO PARTS TO THE PROGRAM. THERE IS A SEX OFFENDER  
22 MANAGEMENT PROGRAM WHICH GOES THROUGHOUT THE SENTENCE.  
23 AND THAT WOULD INVOLVE SOME BASIC LEVELS OF INTERVENTION  
24 GROUPS AND THINGS LIKE THAT. AND ALSO A MONITORING OF,  
25 FOR EXAMPLE, MAIL, PHONE CALLS TO MAKE SURE THAT THEY

1 ARE NOT RECEIVING OR SENDING SEXUALLY EXPLICIT MATERIALS  
2 TO TRY AND HELP THEM CONTROL THAT BEHAVIOR. BUT IT DOES  
3 NOT INVOLVE THE LEVEL OF INTENSITY AS THE SEX OFFENDER  
4 TREATMENT.

5 Q. THAT'S MORE MANAGEABLE THAN TREATMENT?

6 A. IT'S MORE MANAGEABLE, RIGHT.

7 Q. AND THAT'S THROUGHOUT?

8 A. YES. ANYONE WHO IS IDENTIFIED AS HAVING A  
9 HISTORY OF SEXUAL OFFENSES IS PLACED IN THE SEX OFFENDER  
10 MANAGEMENT PROGRAM.

11 Q. I SEE THAT THE REPORT THAT YOU ISSUED WAS  
12 CO-AUTHORED BY YOU AND AN INTERN, RIGHT?

13 A. THAT IS CORRECT.

14 Q. WHO ACTUALLY PREPARED THE REPORT?

15 A. WE USE A PROCESS THERE, ALL OF OUR MEETINGS,  
16 APART FROM CHECK IN AND TESTING, SHE DID A LOT OF THE  
17 TESTING. I AM PRESENT FOR ALL OF THE INTERVIEWS. AND  
18 THEN FOR THE REPORT, THEY PREPARE THE INITIAL DRAFT  
19 WHICH THEY SUBMIT TO ME. AND THEN WE USE WORD TRACK  
20 CHANGES AND WE USUALLY GO THROUGH SEVERAL DRAFTS. SO AT  
21 THE END, IT'S A JOINT REPORT, IT'S NOT ANY ONE PERSON  
22 PREPARING IT.

23 Q. SO THE INTERVIEWS WERE PRIMARILY CONDUCTED BY AN  
24 INTERN, BUT YOU OBSERVED THEM?

25 A. I CAN'T REMEMBER WITH MR. SHORE IF SHE DID THE

1 INTERVIEWS AND I OBSERVED. WE USE A PROCESS, DEPENDING  
2 ON WHERE THE INTERN IS IN HIS OR HER TRAINING, THAT  
3 INITIALLY THEY WOULD OBSERVE ME DOING THE INTERVIEWS AND  
4 THEY -- OR -- AND THEN WE SWITCHED TO WHERE I AM DOING  
5 THE INTERVIEWS AND THEY ARE WATCHING.

6 BUT I AM ALWAYS PRESENT AND ALL THAT ARE  
7 THERE PARTICIPATE, BUT THEY WOULD CONDUCT A BULK OF IT.  
8 I HONESTLY CAN'T REMEMBER WHICH OF US INTERVIEWED MR.  
9 SHORE.

10 Q. AND THE INTERN CONDUCTED THE TESTING, CORRECT?

11 A. YES. SO THE WECHSLER, THE INTELLIGENCE TEST, IS  
12 A FACE-TO-FACE TEST. THE MMPI AND THE MSI, THOSE ARE  
13 JUST SELF-ADMINISTERED TESTS, MEANING YOU GIVE HIM A  
14 BOOKLET AND HE ANSWERS ALL THE QUESTIONS AND I SCORE IT.  
15 AND I SCORE THE STATIC 99.

16 Q. THAT IS MORE SUBJECTIVE?

17 A. IT'S NOT SUBJECTIVE, IT'S BASED ON HISTORICAL  
18 DATA. IT'S AN ACTUARIAL, BUT I AM THE ONE WHO DID THE  
19 SCORING ON THAT --

20 Q. OKAY.

21 A. -- BASED ON THE RECORD.

22 THE COURT: MR. ROSE.

23 RECROSS EXAMINATION

24 BY MR. ROSE:

25 Q. DOCTOR, THE DEFENDANT WAS INCARCERATED LOCALLY

1 FROM MAY TO DECEMBER BEFORE HE WENT TO DEVENS.

2 DID YOU MAKE ANY ATTEMPTS TO SPEAK WITH  
3 THE PSYCHOLOGISTS WHO WERE SEEING HIM AT THE FDC BEFORE  
4 YOU DID THIS REPORT?

5 A. I REVIEWED ALL OF THEIR NOTES AND ELECTRONIC  
6 MEDICAL RECORDS, BUT I DID NOT SPEAK TO THEM.

7 Q. DO YOU KNOW WHO I AM SPEAKING ABOUT, THIS DR.  
8 DANIELS?

9 A. YES.

10 Q. YOU DID NOT CONTACT HER?

11 A. NO.

12 Q. DO YOU HAVE A WRITTEN REPORT FROM HER?

13 A. SHE DIDN'T CONDUCT A REPORT, BUT SHE DID -- THAT  
14 I KNOW OF, BUT SHE DID PROGRESS NOTES IN OUR ELECTRONIC  
15 MEDICAL RECORDS OF THE CONTACTS WITH HIM. BUT I DON'T  
16 RECALL SEEING THEM.

17 Q. DO YOU HAVE THOSE ELECTRONIC NOTES HERE?

18 A. NO. THERE WERE A LOT OF THEM.

19 Q. THE PROGRESS NOTES, I MEAN?

20 A. YES.

21 Q. WHEN YOU SAY "A LOT," HOW VOLUMINOUS ARE WE  
22 SPEAKING?

23 A. HUNDREDS.

24 Q. IS THAT BECAUSE HE WAS IN NEED OF SO MUCH  
25 ATTENTION?

1 MS. ROTELLA: OBJECTION.

2 THE COURT: SUSTAINED.

3 BY MR. ROSE:

4 Q. DID YOU READ THOSE PROGRESS NOTES?

5 A. YES.

6 Q. AND IT'S YOUR TESTIMONY THAT THERE IS NO SUMMARY  
7 OF THE PROGRESS NOTES FROM DR. DANIELS?

8 A. NO, IT WAS MY TESTIMONY THERE WAS NO REPORT.  
9 SHE MAY HAVE DONE LIKE A TRANSFER SUMMARY OR SOMETHING  
10 LIKE THAT AT THE END OF -- AT THE POINT WHEN HE LEFT.

11 Q. DO YOU HAVE THAT, SIR?

12 A. NO, I DID NOT BRING THOSE WITH ME.

13 Q. IS IT AVAILABLE?

14 A. I CAN GET THEM.

15 Q. AND FINALLY, WOULD YOU AGREE WITH THE CONCEPT  
16 THAT AN INMATE WITH THIS DISABILITY MIGHT BE ENDING UP  
17 IN RESTRICTED HOUSING UNITS AND NOT GETTING TREATMENT  
18 BECAUSE OF CONCERN OVER HIS SAFETY FROM OTHER INMATES?

19 MS. ROTELLA: OBJECTION AS TO TOTAL  
20 SPECULATION.

21 BY MR. ROSE:

22 Q. FROM YOUR EXPERIENCE.

23 THE COURT: OVERRULED.

24 THE WITNESS: IT'S POSSIBLE. I MEAN, WE  
25 WOULD MAKE -- I HAVE BEEN WITH THE BUREAU OF PRISONS FOR

1 A LONG TIME. CONTRARY TO SOME PEOPLE'S OPINION, WE DO  
2 EVERYTHING WE CAN TO PREVENT AN OUTCOME LIKE THAT, BUT I  
3 WOULD NOT SAY THAT IT COULD NOT HAPPEN. I WOULD NOT  
4 FORESEE A CIRCUMSTANCE BASED ON MY EXPERIENCE WHERE HE  
5 WOULD BE HOUSED IN ANY KIND OF SECLUDED HOUSING MORE  
6 THAN A BRIEF PERIOD OF TIME WHILE OTHER ARRANGEMENTS  
7 WERE MADE.

8 BY MR. ROSE:

9 Q. WHAT ABOUT IF IT'S FOR HIS SAFETY FROM OTHER  
10 INMATES?

11 A. I BELIEVE IF IT CAME TO THE POINT WHERE HE  
12 REQUIRED ONGOING HOUSING IN A SPECIAL HOUSING UNIT THAT  
13 HE WOULD BE TRANSFERRED TO ANOTHER FACILITY.

14 Q. BUT THEN HE WOULD NOT HAVE THE BENEFIT OF THE  
15 PROGRAM?

16 A. WHAT PROGRAM ARE YOU REFERRING TO?

17 Q. THE BUREAU OF PRISONS, WHAT IS THE TERMINOLOGY,  
18 SEX OFFENDER MANAGEMENT AND TREATMENT PROGRAM?

19 A. WELL, IN THAT PROGRAM THEY LIVE IN THE SAME UNIT  
20 WITH -- EVERYBODY ON THE UNIT IS A SEX OFFENDER. A LOT  
21 OF THEM ARE NOT VERY HIGH FUNCTIONING GUYS. I AM NOT  
22 AWARE OF INDIVIDUALS WHO ARE IN THAT PROGRAM THAT ARE  
23 NOT ABLE TO MAINTAIN -- THEY WOULDN'T -- IF THEY COULD  
24 NOT FEEL SAFE AND PARTICIPATE IN THAT PROGRAM, THEY  
25 WOULD NOT BE ELIGIBLE FOR THE PROGRAM, THEY WOULD BE

1       EXPELLED FROM THE PROGRAM, AND THEY WOULD BE TRANSFERRED  
2       SOMEWHERE ELSE.

3       Q.           IF IT'S REPORTED, IF THE MISCONDUCT IS REPORTED  
4       BY THE VICTIM, THE INMATE WHO MIGHT FEAR IF HE REPORTS  
5       IT HE WILL BE TRANSFERRED OUT OF THE PROGRAM -- OUT OF  
6       THE UNIT.   FAIR ENOUGH TO SAY?

7       A.           I'M SORRY, I DIDN'T UNDERSTAND THE QUESTION.

8                   MS. ROTELLA:   JUDGE, I THINK WE ARE VERY  
9       FAR AWAY FROM --

10                  MR. ROSE:   ONE MORE QUESTION.

11                  MS. ROTELLA:   -- BASIS IN FACT.

12                  MR. ROSE:   LAWYER AT WORK.

13       BY MR. ROSE:

14       Q.           THE SEXUAL OFFENDER TREATMENT PROGRAM THAT YOU  
15       HAVE BEEN TELLING US ABOUT, YOU SAID IT IS MORE LIKELY  
16       THAN NOT TO BE ORDERED TO BE SERVED AT THE END OF THE  
17       SENTENCE.

18       A.           NOT MORE LIKELY THAN NOT, IT WILL.   THEY ARE NOT  
19       GOING TO DO IT BEFORE THEY HAD --

20       Q.           WHAT IF THE COURT ORDERS THAT IT BE SERVED AT  
21       THE BEGINNING, LIKE JUDGE WEINSTEIN DID IN THAT OTHER  
22       CASE IN THE SOUTHERN DISTRICT OF NEW YORK.   HAVE YOU  
23       SEEN THAT?

24       A.           I AM NOT AWARE OF THAT CASE, SO I DON'T KNOW.

25                  MR. ROSE:   ALL RIGHT, THANK YOU, SIR.

1 THE COURT: I AM NOT AWARE OF THE BUREAU  
2 OF PRISONS DISOBEYING ANY ORDER THAT I HAVE ENTERED.

3 MR. ROSE: SCARY THOUGHT, YOUR HONOR.  
4 WOULD NOT GO WELL.

5 MS. ROTELLA: CAN I ASK ONE QUESTION,  
6 YOUR HONOR? TWO QUESTIONS PLEASE?

7 RE-REDIRECT EXAMINATION

8 BY MS. ROTELLA:

9 Q. DR. CHANNELL, NOT EVERY SEX OFFENDER IS A  
10 PEDOPHILE, CORRECT?

11 A. NO, WE HAVE A LOT OF DIFFERENT TYPES OF SEX  
12 OFFENDERS.

13 Q. SO FOR THIS TREATMENT PROGRAM OR TREATMENT IN  
14 GENERAL FOR SEX OFFENDERS OR PEDOPHILES IS LESS  
15 SUCCESSFUL WITH THAT TYPE OF TREATMENT?

16 A. COMPARED TO OTHER SEX OFFENDERS?

17 Q. YES.

18 A. NO, I DON'T BELIEVE SO. I MEAN, THE HIGHEST  
19 RECIDIVISM RATE FOR SEX OFFENDERS IS PROBABLY RAPISTS,  
20 SO, NO.

21 Q. I MEANT CHILD SEX OFFENDERS?

22 A. CHILD SEX OFFENDERS? WELL, AN INDIVIDUAL WHO  
23 ONLY HAS A HISTORY OF CHILD PORNOGRAPHY POSSESSION IS  
24 LESS LIKELY TO RECIDIVATE THAN SOMEBODY WHO HAS A  
25 HISTORY OF CHILD PORNOGRAPHY AND CONTACT OFFENSES.



1 Q. LIKE MR. SHORE?

2 A. YES.

3 THE COURT: WHAT IS THE CONTACT?

4 BY MS. ROTELLA:

5 Q. YOU ARE AWARE THAT PART OF THE CHARGES IN THE  
6 CASE ARE --

7 A. WELL, HE HAD SEX WITH A 16-YEAR OLD THAT HE WAS  
8 IN A RELATIONSHIP WITH.

9 MR. ROSE: THAT'S NOT ONE OF THE CHARGES.

10 THE WITNESS: IT'S NOT A CHARGE.

11 MS. ROTELLA: IT IS A CHARGE, IT'S PART  
12 OF THIS CASE.

13 MR. ROSE: IT'S NOT A PART OF THE  
14 INDICTMENT.

15 THE COURT: STOP IT, BOTH OF YOU.

16 THE WITNESS: I WOULD VIEW THAT AS A  
17 CONTACT OFFENSE, CONTACT SEXUAL OFFENSE.

18 BY MS. ROTELLA:

19 Q. YOU ALSO -- THE HISTORY THAT HE HAD WITH HIS  
20 SISTERS WAS CONSIDERED TO BE A CONTACT OFFENSE BY YOU AS  
21 WELL, IS THAT CORRECT?

22 A. YES.

23 Q. ALL RIGHT. THE LAST THING I WANT TO TALK TO YOU  
24 ABOUT IS YOU TALKED ABOUT THIS SEX OFFENDER TREATMENT  
25 PROGRAM IN THE BUREAU OF PRISONS, AND PART OF WHAT THE

1 JUDGE WAS ASKING YOU, PART OF IT IS -- PART OF THE  
2 TREATMENT IS FOR THE PERSON TO BE ABLE TO ADMIT THEIR  
3 SEXUAL ATTRACTION AND TO BE ABLE TO ADMIT THEIR  
4 OFFENSES, CORRECT?

5 A. THAT'S A BIG PART OF IT, YES.

6 Q. FOR THOSE OFFENDERS LIKE MR. SHORE WHO CANNOT DO  
7 THAT, THAT WOULD MAKE TREATMENT MORE DIFFICULT AND HIS  
8 SUCCESS RATE LESS LIKELY FOR HIM?

9 MR. ROSE: OBJECTION.

10 THE COURT: OVERRULED.

11 THE WITNESS: YOU KNOW, IT'S DIFFICULT  
12 WHERE MR. SHORE IS NOW WITH HIS -- IN A PRETRIAL  
13 SITUATION -- OR NOT PRETRIAL, BUT A PRESENTENCE  
14 SITUATION, WHAT HE MAY OR MAY NOT ACKNOWLEDGE NOW DOES  
15 NOT NECESSARILY REFLECT WHAT HE MAY ACKNOWLEDGE ONCE HE  
16 IS SENTENCED. THERE ARE CLEAR INCENTIVES NOT JUST FOR  
17 HIM BUT FOR ANYBODY PERHAPS NOT TO BE AS FORTHCOMING TO  
18 WHAT HE MIGHT HAVE DONE OR --

19 BY MS. ROTELLA:

20 Q. THAT'S NOT WHAT I AM ASKING. OF COURSE WE WOULD  
21 HOPE THAT HE WOULD ACKNOWLEDGE IT BECAUSE THEN HE WOULD  
22 BE MORE SUCCESSFUL IN HIS PROGRAM, CORRECT? IS THAT  
23 RIGHT?

24 A. YES.

25 Q. YES, BUT IF HE STAYS WHERE HE IS NOW, WHICH IS

1 NOT ADMITTING TO THOSE THINGS, IT MAKES TREATMENT MORE  
2 DIFFICULT?

3 MR. ROSE: OBJECTION.

4 THE COURT: SUSTAINED, SUSTAINED.

5 BY MS. ROTELLA:

6 Q. IF HE STAYS WHERE HE IS NOW AND REFUSES TO  
7 CHANGE HIS ADMISSION TO HIS SEXUAL ATTRACTION TO  
8 CHILDREN, HOW DOES THAT AFFECT THE LIKELIHOOD HE WILL BE  
9 SUCCESSFUL IN HIS TREATMENT?

10 MR. ROSE: SAME OBJECTION, YOUR HONOR.

11 THE COURT: SUSTAINED.

12 BY MS. ROTELLA:

13 Q. DR. CHANNELL, PERHAPS YOU CAN EXPLAIN TO THE  
14 COURT --

15 THE COURT: YOU DID SAY ONE QUESTION.

16 MS. ROTELLA: I WILL END THERE. THANK  
17 YOU.

18 THE COURT: IS THIS IT?

19 MS. ROTELLA: THAT'S IT.

20 THE COURT: IS THIS THE LAST ONE?

21 MS. ROTELLA: THIS WOULD BE IT.

22 THE COURT: GO AHEAD.

23 BY MS. ROTELLA:

24 Q. WHAT I WOULD LIKE TO KNOW, DR. CHANNELL, IS, IS  
25 HIS TREATMENT OR SUCCESS IN TREATMENT EFFECTED BY

1       WHETHER OR NOT HE CAN ADMIT WHAT HE HAS DONE?

2       A.           YES, IF HE WERE TO CONTINUE TO DENY SEXUAL  
3       ATTRACTION TO CHILDREN, HE PROBABLY WOULD NOT -- NOT  
4       ONLY WOULD -- HE WOULD BE UNABLE TO PROGRESS IN  
5       TREATMENT.   THEY WOULD END THE TREATMENT.

6                   MS. ROTELLA:   THANK YOU.

7       BY THE COURT:

8       Q.           IF AND WHEN MR. SHORE IS RELEASED TO THE  
9       COMMUNITY, WHAT CONDITIONS WOULD YOU RECOMMEND BE  
10      IMPOSED?

11      A.           WELL, I THINK THAT'S A GOOD QUESTION, BECAUSE  
12      SOMEBODY OF HIS INTERESTS PLACE HIM IN SITUATIONS THAT  
13      INVOLVE MINORS, FEMALES.   SO ONE OF THE FIRST THINGS  
14      WOULD BE THAT HE WOULD NEED TO BE RESTRICTED FROM THINGS  
15      LIKE CONVENTIONS WHERE A LARGE POPULATION OF MINOR  
16      FEMALES ARE; INTERNET RESTRICTIONS OBVIOUSLY WOULD BE  
17      IMPORTANT, EITHER STRICTLY MONITORED OR NO ACCESS; THAT  
18      IF HE WERE TO BECOME EMPLOYED THAT ANY EMPLOYER WOULD BE  
19      AWARE OF HIS SEX OFFENSE; AND OBVIOUSLY THAT HE CONTINUE  
20      TO COMPLY WITH TREATMENT IN THE COMMUNITY.   THOSE WOULD  
21      BE THE PRIMARY RECOMMENDATIONS.

22                   THE COURT:    OKAY.   YOU MAY STEP DOWN.

23      THANK YOU, DOCTOR.

24                   THE WITNESS:   YOUR WELCOME.

25                   THE COURT:    ARE YOU OKAY WITH YOUR

1 FLIGHT?

2 THE WITNESS: YES, I AM FINE. THANK YOU.

3 MR. ROSE: YOUR QUESTION LEADS ME TO ONE  
4 MORE.

5 THE COURT: GO AHEAD.

6 BY MR. ROSE:

7 Q. IN YOUR REPORT YOU SAID THAT IDEALLY THE  
8 DEFENDANT SHOULD BE IN A RESIDENTIAL PROGRAM, IS THAT  
9 CORRECT, THAT'S ON PAGE 22?

10 A. IF THAT SEGMENT IS -- THAT IS ASSUMING AFTER  
11 THIS SENTENCING HEARING HE WERE RELEASED TO THE  
12 COMMUNITY AT THIS POINT THAT HE BE PLACED IN A  
13 RESIDENTIAL FACILITY. THAT MAY NOT APPLY X-NUMBER OF  
14 YEARS DOWN THE ROAD HE COMPLETED THE SOPT PROGRAM, HE  
15 MAY NOT REQUIRE RESIDENTIAL FACILITY THEN. BUT IF HE  
16 WERE TO BE RELEASED TODAY, YES, ABSOLUTELY.

17 MR. ROSE: THANK YOU, SIR.

18 THE COURT: OKAY, THANK YOU.

19 THE WITNESS: THANK YOU.

20 (WITNESS EXCUSED.)

21 THE COURT: MR. ROSE, DO YOU HAVE  
22 ANYTHING ELSE YOU WANT TO PUT ON?

23 MR. ROSE: NO OTHER WITNESSES, YOUR  
24 HONOR.

25 THE COURT: ANY OTHER EVIDENCE?

1 MR. ROSE: NO, YOUR HONOR.

2 THE COURT: DO YOU HAVE ANYTHING,

3 MS. ROTELLA?

4 MS. ROTELLA: NO, YOUR HONOR, THANK YOU.

5 THE COURT: ALL RIGHT. THAT CONCLUDES  
6 THE FIRST PHASE OF THIS HEARING. WE WILL RESCHEDULE OR  
7 SCHEDULE THE SECOND PHASE WHICH WILL BE THE ACTUAL  
8 SENTENCING PROCEEDING.

9 I MAY IN THE INTERIM REQUEST AN  
10 OPPORTUNITY TO HEAR ORAL ARGUMENT ON THE MOTION  
11 REGARDING THE MANDATORY MINIMUM, OKAY?

12 ANYTHING ELSE?

13 MR. ROSE: YOUR HONOR, WILL WE NEED THE  
14 TRANSCRIPT OF THIS PRECEDING?

15 THE COURT: I KNOW I WILL.

16 MR. ROSE: VERY GOOD, SIR.

17 THE COURT: ALL RIGHT. THAT CONCLUDES  
18 THIS HEARING.

19 MR. ROSE: THANK YOU, SIR.

20 MS. ROTELLA: THANK YOU.

21 (COURT ADJOURNED. 1 O'CLOCK.)

22

23

24

25

I CERTIFY THAT THE FOREGOING IS A CORRECT  
TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE  
ABOVE-ENTITLED MATTER.

DATE OFFICIAL COURT REPORTER  
LYNN GLIGOR, RMR.

## I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
ELLIOTT ATKINS				
BY MR. ROSE	3	--	45	--
BY MS. ROTELLA	--	22	--	--
SHAWN CHANNELL				
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<b>\$10,000</b> [1] - 45:2	<b>28</b> [1] - 77:5	17:25, 21:6, 21:7,	<b>ACCESS</b> [1] - 116:17	115:1
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45:24, 46:7**ZOLOFT** <sup>[1]</sup> - 80:10